



Overview

These provisions overview requirements for the treatment of customs duties, rates, and tariffs on goods originating and exported from the United States (U.S.), Mexico (MX) and Canada (CA) under USMCA. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 2, Article 2.1, 2.4, 2.6, 2.8, 2.9, 2.10, 2.15; Chapter 6, Article 2.15
 - *HR 5430 Citation*: Title I, Section 101
- **NAFTA**
 - *Final Text*: Chapter 3, Section B – Tariffs, Article 302, 304, 306, 307, 308, Annex 308.1-3; Chapter 3, Section C, Article 31

Significant Changes in USMCA

Provision	USMCA	NAFTA
General Treatment And Duty Free	<ul style="list-style-type: none"> • Unless specifically excepted under USMCA , no new duties adopted or existing duties will increase on originating goods from U.S., MX, or CA. 	
Waivers	<ul style="list-style-type: none"> • Prohibited if conditioned on performance requirements. 	<ul style="list-style-type: none"> • Prohibited if conditioned on performance requirements. • If shown to have adverse impacts on the following, waivers must be rescinded or made generally available to all importers from the U.S., CA, and MX: <ul style="list-style-type: none"> ○ Economy of the U.S., CA, or MX ○ Commercial interest of a person of, or controlled or owned by a person of the U.S., CA, or MX that is operating in the territory of the country that issued the waiver.
Eliminations	<ul style="list-style-type: none"> • CA, MX, or U.S. may request an increase in the scope and/or pace of eliminations of the other signing countries duties. • CA, MX, or U.S. may unilaterally increase the scope and/or pace of their own duties. 	<ul style="list-style-type: none"> • CA, MX, or U.S. may request increase in the scope and/or pace of eliminations of the other signing countries duties.
Export Requirements	<ul style="list-style-type: none"> • Statutory language modified for clarity. • No change to the general execution of export duties. 	
Commercial Samples and Printed Advertising Materials	<ul style="list-style-type: none"> • No change – Duty free, regardless of their origin, so long as samples are imported solely for the solicitation of goods in U.S., MX, or CA, or advertising packets contain no more than one copy of each such material. 	



Provision	USMCA	NAFTA
Goods Re-entered after Repair or Alteration	<ul style="list-style-type: none"> No Party shall apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of another Party for repair or alteration. 	<ul style="list-style-type: none"> No Party may apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been exported from its territory to the territory of another Party for repair or alteration, regardless of whether such repair or alteration could be performed in its territory.
Administrative Fees and Formalities	<ul style="list-style-type: none"> All fees and charges (other than customs duties, charges equivalent to an internal tax or other internal charges, and antidumping or countervailing duties) cannot – <ul style="list-style-type: none"> Exceed the approximate cost of services rendered; or Represent an indirect protection to a domestic good or a taxation of an import or export for fiscal purposes. 	<ul style="list-style-type: none"> No Party may adopt any customs U.S. fee of the type referred to in Annex 310.1 for originating goods. The Parties specified in Annex 310.1 may maintain existing such fees in accordance with that Annex. The United States shall not increase its merchandise processing fee and shall eliminate such fee according to the schedule set out, without regard to whether the goods are marked. The United States shall not increase its merchandise processing fee and shall eliminate such fee by June 30, 1999, on originating goods where those goods qualify to be marked as goods of Mexico pursuant to Annex 311, without regard to whether the goods are marked.

Detailed USMCA /NAFTA Side-by-Side

Provision	USMCA	NAFTA
General Treatment	<ul style="list-style-type: none"> Unless otherwise provided in this Agreement, no Party shall increase any existing customs duty, or adopt any new customs duty, on an originating good. Unless otherwise provided in this Agreement, each Party shall apply a customs duty on an originating good in accordance with its Schedule to Annex 2-B (Tariff Commitments). 	<ul style="list-style-type: none"> Except as otherwise provided in this Agreement, no Party may increase any existing customs duty, or adopt any customs duty, on an originating good.
Waivers	<ul style="list-style-type: none"> No Party shall adopt or maintain any waiver of a customs duty if the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement. Performance requirement means a requirement that: <ol style="list-style-type: none"> a given level or percentage of goods or services be exported; a domestic good or service of the Party granting a waiver of a custom duty or an import license be substituted for an imported good or service; a person benefitting from a waiver of a custom duty or a grant of an import license, purchase a good or service in the territory of the Party granting the 	<ul style="list-style-type: none"> Except as set out in Annex 304.1, no Party may adopt any new waiver of customs duties, or expand with respect to existing recipients or extend to any new recipient the application of an existing waiver of customs duties, where the waiver is conditioned, explicitly or implicitly, on the fulfillment of a performance requirement. Except as set out in Annex 304.2, no Party may, explicitly or implicitly, condition on the fulfillment of a performance requirement the continuation of any existing waiver of customs duties. If a waiver or a combination of waivers of customs duties granted by a Party with respect to goods for commercial U.S. use by a designated person can be shown by another Party to have

Provision	USMCA	NAFTA
	<p>waiver or the import license or accord a preference to a domestically produced good or service;</p> <p>d) a person benefitting from a waiver of a custom duty or a grant of an import license produce a good or provide a service, in the territory of the Party granting the waiver or import license, with a given level or percentage of domestic content; or</p> <p>e) relates in any way the volume or value of imports to the volume or value of exports or to the amount of foreign exchange inflows.</p> <ul style="list-style-type: none"> • It does not include a requirement that an imported good be: <ul style="list-style-type: none"> a) subsequently exported; b) Used as a material in the production of another good that is subsequently exported; c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported; or d) substituted by an identical or similar good that is subsequently exported. 	<p>an adverse impact on the commercial interests of a person of that Party, or of a person owned or controlled by a person of that Party that is located in the territory of the Party granting the waiver, or on the other Party's economy, the Party granting the waiver shall either cease to grant it or make it generally available to any importer.</p> <ul style="list-style-type: none"> • This Article shall not apply to measures subject to Article 303, Restriction on Drawback and Duty Referral Programs.
Eliminations	<ul style="list-style-type: none"> • On the request of a Party, the Parties shall consult to consider accelerating or broadening the scope of the elimination of customs duties set out in their Schedules to Annex 2-B (Tariff Commitments). An agreement between two or more Parties to accelerate or broaden the scope of the elimination of a customs duty on an originating good shall supersede any customs duty rate determined pursuant to those Parties' Schedules to Annex 2-B (Tariff Commitments) for that good once approved by each Party in accordance with its applicable legal procedures. • A Party may at any time unilaterally accelerate the elimination of customs duties set out in its Schedule to Annex 2-B (Tariff Commitments) on originating goods. 	<ul style="list-style-type: none"> • Except as otherwise provided in this Agreement, each Party shall progressively eliminate its customs duties on originating goods in accordance with its Schedule to Annex 302.2. • On the request of any Party, the Parties shall consult to consider accelerating the elimination of customs duties set out in their Schedules. An agreement between two or more Parties to accelerate the elimination of a customs duty on a good shall supersede any duty rate or staging category determined pursuant to their Schedules for such good when approved by each such Party in accordance with its applicable legal procedures.

Provision	USMCA	NAFTA
Export Duties	<ul style="list-style-type: none"> No Party shall adopt or maintain any duty, tax, or other charge on the export of any good to the territory of another Party, unless the duty, tax, or charge is also applied to the good if destined for domestic consumption. 	<ul style="list-style-type: none"> Except as set out in Annex 314, no Party may adopt or maintain any duty, tax or other charge on the export of any good to the territory of another Party, unless such duty, tax or charge is adopted or maintained on: <ol style="list-style-type: none"> exports of any such good to the territory of all other Parties; and any such good when destined for domestic consumption.
Automotive Goods	<ul style="list-style-type: none"> Annex 2-C (Provisions between Mexico and the United States on Automotive Goods) contains additional provisions between Mexico and the United States relating to customs duties on automotive goods that are not originating under Chapter 4 (Rules of Origin). 	<ul style="list-style-type: none"> Not stated.
Commercial Samples and Printed Advertising Materials	<ul style="list-style-type: none"> No Party shall apply a customs duty to commercial samples of negligible value or to printed advertising materials imported from the territory of another Party, regardless of their origin, but a Party may require that: <ol style="list-style-type: none"> the samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of another Party or a non-Party; or the advertising materials be imported in packets that each contain no more than one copy of each such material and that neither the materials nor the packets form part of a larger consignment. 	<ul style="list-style-type: none"> Each Party shall grant duty-free entry to commercial samples of negligible value, and to printed advertising materials, imported from the territory of another Party, regardless of their origin, but may require that: <ol style="list-style-type: none"> such samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of another Party or non-Party; or such advertising materials be imported in packets that each contain no more than one copy of each such material and that neither such materials nor packets form part of a larger consignment.



Overview

This provision covers requirements for the adoption, modification, increase, and/or elimination of the custom duty rates on goods originating in the United States (U.S.), Mexico (MX), and Canada (CA). This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 2, Article 2.4
 - *HR 5430 Citation*: Title I, Section 103(c)
- **NAFTA**
 - *Final Text*: Chapter 3, Section B – Tariffs, Article 302

Significant Changes in USMCA

Provision	USMCA	NAFTA
Duty Increases	No change – Restricted on originating goods.	
Duty Adoption	No change – Restricted on originating goods.	
Duty Elimination	<ul style="list-style-type: none"> • CA, MX, or U.S. may request increase in the scope and/or pace of eliminations of each other's duties <i>or</i> unilaterally increase the scope and/or pace of their own duties. 	<ul style="list-style-type: none"> • Are to be eliminated on originating goods • CA, MX, or U.S. may request increase in the scope and/or pace of eliminations of each other's duties.
Exceptions	<ul style="list-style-type: none"> • Additional provisions for automotive goods. 	<ul style="list-style-type: none"> • Not specified.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Duty Increases	<ul style="list-style-type: none"> • Unless an exception is granted by this agreement, existing customs duties on originating goods may not be increased by CA, MX, or the U.S. 	
Duty Adoption	<ul style="list-style-type: none"> • CA, MX, and the U.S. may not place new customs duties on originating goods unless a specific exception is granted by this agreement. 	
Duty Elimination	<ul style="list-style-type: none"> • CA, MX, and U.S. may each request the reconsideration of the pace and/or scope of eliminations of duties. Eliminations may be accelerated or broadened if agreement if reached between two or more parties. • CA, MX or the U.S. may unilaterally decide to increase the scope and/or elimination of their countries duties. 	<ul style="list-style-type: none"> • Except was otherwise provided by NAFTA must progressively eliminate all customs duties on originating goods. • CA, MX, and U.S. may each request the reconsideration of the pace eliminations of duties. Eliminations may be accelerated or broadened if agreement if reached between two or more parties.

Provision	USMCA	NAFTA
Exceptions	<ul style="list-style-type: none">Additional provisions are provided for the application of duties on automotive goods between CA and MX.	<ul style="list-style-type: none">Not stated.



Overview

This provision covers the requirements for the application of Most-Favored Nation (MFN) rates on certain goods under USMCA. Rules of origin in USMCA and its predecessor, the North American Free Trade Agreement (NAFTA), help ensure that the benefits of the agreements are granted only to goods produced by the United States (U.S.), Mexico (MX), and Canada (CA), rather than to goods made wholly or in large part in other countries. If a good imported from CA or MX does not meet USMCA rules-of-origin requirements but is listed in this provision, it will receive MFN treatment.

References

- **USMCA**
 - *Final Text:* Chapter 2, Article 2.10
- **NAFTA**
 - *Final Text:* Chapter 3, Section B – Tariffs, Article 308; Annex 308.1-3

Significant Changes in USMCA

Provision	USMCA	NAFTA
Duty-Free Conditions	<ul style="list-style-type: none"> • No change in overall guidance – Select goods from MX, CA, or U.S. will receive most-favored-nation duty-free treatment when imported into MX, CA, or U.S. 	
Applicable Goods	<ul style="list-style-type: none"> • No change in general categories of goods – Applies to certain automatic data processing goods and their parts, color television tubes, and any local area network apparatus. 	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Duty-Free Conditions	<ul style="list-style-type: none"> • Each Party shall accord most-favored-nation duty-free treatment to a good provided for under the tariff provisions set out in Tables 2.10.1, 2.10.2, and 2.10.3. • Notwithstanding Chapter 4 (Rules of Origin), each Party shall consider a good set out in Table 2.10.1, if imported into its territory from the territory of another Party, to be an originating good. 	<ul style="list-style-type: none"> • Annex 308.1 applies to certain automatic data processing goods and their parts. • Annex 308.2 applies to certain color television tubes. • Each Party shall accord most-favored-nation duty-free treatment to any local area network apparatus imported into its territory, and shall consult in accordance with Annex 308.3.

Provision	USMCA		NAFTA	
Applicable Goods	Table 2.10.1		<p data-bbox="1052 323 1471 380">Annex 308.1, Certain Automatic Data Processing Goods and Their Parts</p> <ul data-bbox="1052 401 1560 1520" style="list-style-type: none"> • Each Party shall reduce its most-favored-nation rate of duty applicable to a good provided for under the tariff provisions set out in Tables 308.1.1 and 308.1.2 in Section B to the rate set out therein, to the lowest rate agreed by any Party in the Uruguay Round of Multilateral Trade Negotiations, or to such reduced rate as the Parties may agree, in accordance with the schedule set out in Section B, or with such accelerated schedule as the Parties may agree. • Notwithstanding Chapter Four (Rules of Origin), when the most-favored-nation rate of duty applicable to a good provided for under the tariff provisions set out in Table 308.1.1 in Section B conforms with the rate established under paragraph 1, each Party shall consider the good, when imported into its territory from the territory of another Party, to be an originating good. • A Party may reduce in advance of the schedule set out in Table 308.1.1 or Table 308.1.2 in Section B, or of such accelerated schedule as the Parties may agree, its most-favored-nation rate of duty applicable to any good provided for under the tariff provisions set out therein, to the lowest rate agreed by any Party in the Uruguay Round of Multilateral Trade Negotiations, or the rate set out in Table 308.1.1 or 308.1.2, or to such reduced rate as the Parties may agree. • For greater certainty, most-favored-nation rate of duty does not include any other concessionary rate of duty. <p data-bbox="1052 1541 1507 1598">Annex 308.2, Certain Color Cathode-Ray Television Picture Tubes</p> <ul data-bbox="1052 1619 1544 2030" style="list-style-type: none"> • Any Party considering the reduction of its most-favored-nation rate of customs duty for goods provided for in item 8540.11.aa (color cathode-ray television picture tubes, including video monitor cathode-ray tubes, with a diagonal exceeding 14 inches) or 8540.11.c (color cathode-ray television picture tubes for high definition television, with a diagonal exceeding 14 inches) during the first 10 years after the date of entry into force of this Agreement shall consult with the other Parties in advance of such reduction. 	
	A. Automatic Data Processing Machines (ADP)			
		8471.30		
		8471.41		
		8471.49		
	B. Digital Processing Units			
		8471.50		
	C. Input or Output Units			
	Combined Input/Output Units			
	CA	8471.60.00		
	MX	8471.60.02		
	US	8471.60.10		
	Display Units			
	CA	8528.42.00 8528.52.00 8528.62.00		
	MX	8528.41.99 8528.51.01 8528.51.99 8528.61.01		
	U.S.	8528.42.00 8528.52.00 8528.62.00		
	Other Input or Output Units			
	CA	8471.60.00		
	MX	8471.60.03 8471.60.99		
	U.S.	8471.60.20 8471.60.70 8471.60.80 8471.60.90		
	D. Storage Units			
		8471.70		
	E. Other Units of Automatic Data Processing Machines			
		8471.80		
F. Parts of Computers				
	8443.99	Parts of machines of subheading 8443.31 and 8443.32, excluding facsimile machines and teleprinters		

Provision	USMCA		NAFTA	
		8473.30	Parts of ADP machines and units thereof	<ul style="list-style-type: none"> If any other Party objects in writing to such reduction, other than a reduction in the Uruguay Round of Multilateral Trade Negotiations, and the Party proceeds with the reduction, any objecting Party may raise its applicable rate of duty on originating goods provided for in the corresponding tariff item set out in its Schedule to Annex 302.2, up to the applicable rate of duty as if such good had been placed in staging category C for purpose of tariff elimination. <p>Annex 308.3, Local Area Network Apparatus</p> <ul style="list-style-type: none"> To facilitate the operation of Article 308(3), the Parties shall consult regarding the tariff classification of local area network apparatus and shall endeavor to agree, no later than January 1, 1994, on the classification of such goods in each Party's tariff schedule.
		8443.99	Parts of LAN equipment of subheading 8517.62	
	CA	8529.90.19 8529.90.50 8529.90.90	Parts of monitors and projectors of subheading 8528.42, 8528.52, and 8528.62	
	MX	8529.90.01 8529.90.06	Parts of monitors or projectors of subheadings 8528.41, 8528.51, and 8528.61	
	U.S.	8529.90.22 8529.90.75 8529.90.99	Parts of monitors and projectors of subheading 8528.42, 8528.52, and 8528.62	
G. Computer Power Supplies				
	CA	8504.40.30 8504.40.90 8504.90.10 8504.90.20 8504.90.90		
	MX	8504.40.12 8504.40.14 8504.90.02 8504.90.07 8504.90.08	Parts of goods classified in tariff item 8504.40.12	
	U.S.	8504.40.60 8504.40.70 8504.90.20 8504.90.41		
Table 2.10.2				
A. Metal Oxide Varistors				
	CA	8533.40.00		
	MX	8533.40.05		
	U.S.	8533.40.40		
B. Diodes, Transistors and Similar Semiconductor Devices; Photosensitive Semiconductor Devices; Light Emitting Diodes; Mounted Piezo-electric Crystals				
		8541.10		
		8541.21		
		8541.29		
		8541.30		
		8541.50		
		8541.60		
		8541.90		
	CA	8541.40		
	MX	8541.40.01 8541.40.02		

Provision	USMCA		NAFTA
		8541.40.03	
	U.S.	8541.40.20 8541.40.60 8541.40.70	
	C. Electronic Integrated Circuits and Microassemblies		
		8542	
	CA	8548.90.00	
	MX	8548.90.04	
	U.S.	8548.90.01	
	Table 2.10.3		
	Local Area Network (LAN) Apparatus		
	CA	8517.62.00	
	MX	8517.62.01	
	U.S.	8517.62.00	



Overview

This is a new provision in the new United States-Mexico-Canada Agreement (USMCA). There was no such provision in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 7, Article 7.6
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Requirements	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • Only a domestic importer, or an exporter or producer in one of the other two countries, can request advice or information. • Must respond timely if it meets the requirements of the drawback or duty deferral program. 	No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Citation	<p>Article 7.6: Advice or Information Regarding Duty Drawback or Duty Deferral Programs</p> <ul style="list-style-type: none"> • Upon request from an importer in its territory, or an exporter or producer in the territory of another Party, a Party shall, within a reasonable timeframe, provide advice or information relevant to the facts contained in the request on the application of duty drawback or duty deferral programs that reduce, refund, or waive customs duties. 	<ul style="list-style-type: none"> • Not specified.



Overview

This provision covers the circumstances under which duties, taxes, or other charges may be applied to originating goods that are exported to Canada, Mexico, or the United States. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text:* Chapter 2, Article 2.15
 - *HR 5430 Citation:* Title I, Section 101
- **NAFTA**
 - *Final Text:* Chapter 3, Section C, Article 314

Significant Changes in USMCA

Provision	USMCA	NAFTA
Export Duties	<ul style="list-style-type: none"> • No significant change – Collected on originating goods only if the charge is also collected for domestic use of the good 	<ul style="list-style-type: none"> • Collected on originating goods if the same charge is also collected for domestic use <i>and</i> when exported to CA, MX, and U.S.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Export Duties	<ul style="list-style-type: none"> • No duty, tax, or other charge will be adopted or maintained on the export of any good to the territory of CA, MX, or U.S., unless the duty, tax, or charge is also applied to the same good when used for domestic consumption. 	<ul style="list-style-type: none"> • No duty, tax, or other charge will be adopted or maintained on the export of any good to the territory of CA, MX, or U.S., unless the duty, tax, or charge is also applied to the same good when used for domestic consumption <i>and</i> exported to the territory of all three countries.



Overview

This provision covers the requirements for applying for refunds of excess duties paid on goods that would have qualified for preferential tariff treatment upon importation. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text:* Chapter 5, Article 5.11
 - *HR 5430 Citation:* Title II, Section 206
- **NAFTA**
 - *Final Text:* Chapter 5, Section A, Article 502(3)
- **CFR:** 19 CFR 1520(d)

Significant Changes in USMCA

Provision	USMCA	NAFTA
Effective Period	<ul style="list-style-type: none"> • No change – NAFTA and USMCA. Post-importation can be filed pursuant to 19 USC 1520(d), no later than one year after the date of importation • USMCA also allows for a longer period if specified in importing Party's law 	
MPF Exemption	<ul style="list-style-type: none"> • Change from NAFTA - (MPF) is not exempt. 	
Responsible Party(ies)	<ul style="list-style-type: none"> • Change – Importer focus. NAFTA is exporter focused. 	
Eligibility	<ul style="list-style-type: none"> • No change – both allow an importer to submit a post-importation claim to obtain a refund of any excess duties paid on a good, provided that the good would have qualified for preferential tariff treatment upon importation 	
Documentation Requirements	<ul style="list-style-type: none"> • Minimal change – both require an originating statement and other documentation relating to importation of good • USMCA allows for certification of origin; while NAFTA requires a formal Certificate of Origin (Form 434) 	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Effective Period	<ul style="list-style-type: none"> No later than one year after the date of importation or a longer period of specified in the importing Party's law 	<ul style="list-style-type: none"> No later than one year after the date on which the good was imported
Responsible Party(ies)	<ul style="list-style-type: none"> Importer 	<ul style="list-style-type: none"> Importer and Exporter/Producer responsible for certification.
Eligibility	<ul style="list-style-type: none"> Each Party shall provide that an importer may apply for preferential tariff treatment and a refund of any excess duties paid for a good if the importer did not make a claim for preferential tariff treatment at the time of importation, provided that the good would have qualified for preferential tariff treatment when it was imported into the territory of the Party. 	<ul style="list-style-type: none"> Each Party shall provide that, where a good would have qualified as an originating good when it was imported into the territory of that Party but no claim for preferential tariff treatment was made at that time, the importer of the good may apply for a refund of any excess duties paid as the result of the good not having been accorded preferential tariff treatment
Documentation Requirements	<ul style="list-style-type: none"> Make a claim for preferential tariff treatment; Provide a statement that the good was originating at the time of importation; Provide a copy of the certification of origin; and Provide any other documentation relating to the importation of the good as the importing Party may require. 	<ul style="list-style-type: none"> A written declaration that the good qualified as an originating good at the time of importation; A copy of the Certificate of Origin; and Such other documentation relating to the importation of the good as that Party may require.



Overview

This provision covers the requirements for temporary admission of goods and differences from the previous North American Free Trade Agreement (NAFTA). USMCA includes additional guidance related to extensions, release requirements, exportation requirements, as well as updating provisions for duty-free temporary admission of shipping containers or other substantial holders used in the shipment of goods.

References

- **USMCA**
 - *Final Text:* Chapter 2, Article 7
- **NAFTA**
 - *Final Text:* Chapter 3, Section B, Article 305

Significant Changes in USMCA

Provision	USMCA	NAFTA
Applicable Goods	<ul style="list-style-type: none"> • No change in commodity types – Includes professional equipment, goods imported for sport purposes, goods intended for display or demonstration, and commercial samples and advertising films and recordings. • For professional equipment, USMCA follows law of importing Party while NAFTA is pursuant to Chapter Sixteen (Temporary Entry for Business Persons). 	
Duty-Free Conditions	<ul style="list-style-type: none"> • No change in overall guidance – USMCA provision consolidates guidance for all commodity types that were split into two provision in NAFTA. 	
Extensions	<ul style="list-style-type: none"> • USMCA allows each Party to extend time limit for temporary admission at the request of the person concerned. • The period of temporary admission of a shipping container or other substantial holder, registered with the customs authority, shall be extended at the request of the person concerned. 	<ul style="list-style-type: none"> • Not specified.
Release Requirements	<ul style="list-style-type: none"> • USMCA includes provision for expeditious release of goods admitted. • Specifically, goods should be released simultaneously with entry of national 	<ul style="list-style-type: none"> • Not specified.
Exportation Requirements	<ul style="list-style-type: none"> • Goods may be exported through a customs port other than the port through which it was admitted. • The person responsible for admission will not be liable for failure to export upon presentation of proof that the good was destroyed within the original time period fixed for temporary admission or extension. 	<ul style="list-style-type: none"> • Not specified.

Provision	USMCA	NAFTA
Charges and Penalties	<ul style="list-style-type: none"> • No change – Parties may impose customs duty and any other charge that would normally be owed on entry or importation of good if the requirements for temporary admission are not fulfilled. 	
Investment and Cross-Border Trade in Services	<ul style="list-style-type: none"> • No change beyond changes in applicable USMCA and NAFTA Chapters. • In addition, USMCA added “shipping container or other substantial holder” (<i>see below for related guidance</i>). 	
Definitions	<ul style="list-style-type: none"> • No significant change to “vehicle” definition. However, USMCA adds a phrase specifying international traffic: “vehicle means a truck, a truck tractor, a tractor, a trailer unit or trailer, a locomotive, or a railway car or other railroad equipment, if used in international traffic (Article 2.7).” • USMCA adds definition for “shipping container or other substantial holder.” 	
Shipping Container / Substantial Holder Provisions	<ul style="list-style-type: none"> • Affords relief from customs duties • Treatment extends to accessories or accompanying equipment if internal volume is one cubic meter or more. • Allow it to remain in territory for at least 90 consecutive days. • Allows arrival and release of one being used/to be used in shipment of goods in international traffic regardless of size, volume, capacity, or dimension. • Allows extension of timeframe for temporary admission. • May require registration with customs authority first time it arrives. 	<ul style="list-style-type: none"> • Not specified.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Applicable Goods	<p>1. Each Party shall grant duty-free temporary admission for:</p> <ul style="list-style-type: none"> a) professional equipment, including equipment for the press or television, software, and broadcasting and cinematographic equipment, that is necessary for carrying out the business activity, trade, or profession of a person who qualifies for temporary entry in accordance with the law of the importing Party; b) a good intended for display or demonstration, including its component parts, ancillary apparatus and accessories; c) commercial samples and advertising films and recordings; and d) a good admitted for sports purposes, admitted from the territory of another Party, regardless of their origin and regardless of whether like, directly competitive, or substitutable goods are available in the territory of the Party. 	<p>1. Each Party shall grant duty-free temporary admission for:</p> <ul style="list-style-type: none"> a) professional equipment necessary for carrying out the business activity, trade or profession of a business person who qualifies for temporary entry pursuant to Chapter Sixteen (Temporary Entry for Business Persons), b) equipment for the press or for sound or television broadcasting and cinematographic equipment, c) goods imported for sports purposes and goods intended for display or demonstration, and d) commercial samples and advertising films, imported from the territory of another Party, regardless of their origin and regardless of whether like, directly competitive or substitutable goods are available in the territory of the Party.
Duty-Free Conditions	<p>2. No Party shall condition the duty-free temporary admission of a good referred to in paragraph 1, other than to require that the good:</p> <ul style="list-style-type: none"> a) be imported by a national of another Party who seeks temporary entry; b) be used solely by or under the personal supervision of a national of another Party in the exercise of the business activity, trade, profession, or sport of that person; c) not be sold, leased, or, for goods referred to in paragraph 1(c), not be put to any use other than exhibition or demonstration, while in its territory; d) be accompanied by a security in an amount no greater than 110 percent of the charges that would otherwise be owed on entry or importation, and releasable on exportation of the good except that a bond for customs duties shall not be required for an originating good; e) be capable of identification when exported; f) be exported on the departure of the person referenced in subparagraph (a), or within any other period reasonably related to the purpose of the temporary admission 	<p>2. Except as otherwise provided in this Agreement, no Party may condition the duty-free temporary admission of a good referred to in paragraph 1(a), (b) or (c), other than to require that such good:</p> <ul style="list-style-type: none"> a) be imported by a national or resident of another Party who seeks temporary entry; b) be used solely by or under the personal supervision of such person in the exercise of the business activity, trade or profession of that person; c) not be sold or leased while in its territory; d) be accompanied by a bond in an amount no greater than 110 percent of the charges that would otherwise be owed on entry or final importation, or by another form of security, releasable on exportation of the good, except that a bond for customs duties shall not be required for an originating good; e) be capable of identification when exported; f) be exported on the departure of that person or within such other period of time as is reasonably related to the purpose of the temporary admission; and

Provision	USMCA	NAFTA
	<p>as the Party may establish, unless extended;</p> <p>g) be admitted in no greater quantity than is reasonable for its intended use; and</p> <p>h) be otherwise admissible into the Party's territory under its law.</p>	<p>g) be imported in no greater quantity than is reasonable for its intended use.</p> <p>3. Except as otherwise provided in this Agreement, no Party may condition the duty-free temporary admission of a good referred to in paragraph 1(d), other than to require that such good:</p> <p>a) be imported solely for the solicitation of orders for goods, or services provided from the territory, of another Party or non-Party;</p> <p>b) not be sold, leased or put to any use other than exhibition or demonstration while in its territory;</p> <p>c) be capable of identification when exported;</p> <p>d) be exported within such period as is reasonably related to the purpose of the temporary admission; and</p> <p>e) be imported in no greater quantity than is reasonable for its intended use.</p>
Extensions	3. Subject to its law, each Party shall extend the time limit for temporary admission beyond the period initially fixed at the request of the person concerned.	<ul style="list-style-type: none"> • Not specified.
Release Requirements	4. Each Party shall adopt or maintain procedures providing for the expeditious release of a good admitted under this Article. To the extent possible, those procedures must provide that when such a good accompanies a national of another Party who is seeking temporary entry, the good shall be released simultaneously with the entry of that national.	<ul style="list-style-type: none"> • Not specified.
Exportation Requirements	<p>5. Each Party shall permit a good temporarily admitted under this Article to be exported through a customs port other than the port through which it was admitted.</p> <p>6. Each Party shall provide, in accordance with its law, that the person responsible for a good admitted under this Article shall not be liable for failure to export the good upon presentation of proof satisfactory to the Party into whose territory the good was admitted that the good has been destroyed within the original time period fixed for temporary admission or any lawful extension.</p>	<ul style="list-style-type: none"> • Not specified.

Provision	USMCA	NAFTA
Charges and Penalties	7. If any condition that a Party imposes under paragraph 2 has not been fulfilled, the Party may apply the customs duty and any other charge that would normally be owed on entry or importation of the good in addition to any other charges or penalties provided for under its law.	4. A Party may impose the customs duty and any other charge on a good temporarily admitted duty-free under paragraph 1 that would be owed on entry or final importation of such good if any condition that the Party imposes under paragraph 2 or 3 has not been fulfilled.
Investment and Cross-Border Trade in Services	8. Subject to Chapters 14 (Investment) and Chapter 15 (Cross Border Trade in Services): <ul style="list-style-type: none"> a) each Party shall allow a vehicle, or shipping container or other substantial holder, that enters its territory from the territory of another Party to exit its territory on any route that is reasonably related to the economic and prompt departure of that vehicle, or shipping container or other substantial holder; b) no Party shall require any security or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle, or shipping container or other substantial holder; c) no Party shall condition the release of any obligation, including any security, that it imposes in respect of the entry of a vehicle, or shipping container or other substantial holder, into its territory on the exit of that vehicle, or shipping container or other substantial holder, through any particular port of departure; and d) no Party shall require that the vehicle or carrier bringing a shipping container or other substantial holder from the territory of another Party into its territory be the same vehicle or carrier that takes that shipping container or other substantial holder to the territory of another Party. 	5. Subject to Chapters Eleven (Investment) and Twelve (Cross Border Trade in Services): <ul style="list-style-type: none"> a) each Party shall allow a vehicle or container used in international traffic that enters its territory from the territory of another Party to exit its territory on any route that is reasonably related to the economic and prompt departure of such vehicle or container; b) no Party may require any bond or impose any penalty or charge solely by reason of any difference between the port of entry and the port of departure of a vehicle or container; c) no Party may condition the release of any obligation, including any bond, that it imposes in respect of the entry of a vehicle or container into its territory on its exit through any particular port of departure; and d) no Party may require that the vehicle or carrier bringing a container from the territory of another Party into its territory be the same vehicle or carrier that takes such container to the territory of another Party.
Definitions	9. For the purposes of paragraph 8, vehicle means a truck, a truck tractor, a tractor, a trailer unit or trailer, a locomotive, or a railway car or other railroad equipment, if used in international traffic. <p>14. For the purposes of paragraph 8 and paragraphs 10 through 13, a "shipping container or other substantial holder" includes any container or holder, whether collapsible or not, that is constructed of a sturdy material capable of repeated use, and is used in the shipment of goods in international traffic.</p>	6. For purposes of paragraph 5, "vehicle" means a truck, a truck tractor, tractor, trailer unit or trailer, a locomotive, or a railway car or other railroad equipment.

Provision	USMCA	NAFTA
Shipping Container / Substantial Holder Provisions	<p>10. Each Party shall adopt or maintain procedures allowing for the arrival and release from customs custody, such as through a procedure that provides for temporary admission as set forth in this Article, of a shipping container or other substantial holder being used or to be used in the shipment of goods in international traffic, whether arriving full or empty and of any size, volume, or dimension, with relief from custom duties and allowing it to remain within its territory for at least 90 consecutive days.</p> <p>11. Each Party shall, in accordance with its laws, regulations, and procedures, extend the timeframe for temporary admission of a shipping container or other substantial holder beyond the period initially fixed at the request of the person concerned.</p> <p>12. A Party may require that a shipping container or other substantial holder be registered with the customs authority the first time it arrives in its territory, as a condition for the treatment described in paragraphs 10 and 11.</p> <p>13. Each Party shall include in the treatment of any shipping container or other substantial holder that has an internal volume of one cubic meter or more, the accessories or equipment accompanying it as defined by the importing Party.</p>	<ul style="list-style-type: none"> • Not specified.



Overview

Indirect materials are materials used or consumed in the production, testing, or inspection of a good but not physically incorporated into the good or material used or consumed in the maintenance of buildings or the operation of equipment associated with the production of the good. There was no provisional change from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 4, Article 4.1, 4.9
 - *HR 5430 Citation*: Title II, Section 202(a)(5), (k)
- **NAFTA**
 - *Final Text*: Chapter 4, Rules of Origin, Article 408, 415

Significant Changes in USMCA

Provision	USMCA	NAFTA
Indirect Materials	• No change from NAFTA to USMCA.	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Indirect Materials	<p>Article 4.1 Definition:</p> <ul style="list-style-type: none"> • An indirect material means a material used in the production, testing, or inspection of a good but not physically incorporated into the good, or a material used in the maintenance of buildings or the operation of equipment associated with the production of a good, including: <ul style="list-style-type: none"> a) fuel and energy; b) tools, dies, and molds; c) spare parts and materials used in the maintenance of equipment and buildings; d) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings; e) gloves, glasses, footwear, clothing, safety equipment, and supplies; f) equipment, devices, and supplies used for testing or inspecting the goods; g) catalysts and solvents; and h) any other material that is not incorporated into the good but for which the use in the production of the good can reasonably be 	<p>Article 415 Definition:</p> <ul style="list-style-type: none"> • An indirect material means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including: <ul style="list-style-type: none"> a) fuel and energy; b) tools, dies and molds; c) spare parts and materials used in the maintenance of equipment and buildings; d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings; e) gloves, glasses, footwear, clothing, safety equipment and supplies; f) equipment, devices, and supplies used for testing or inspecting the goods; g) catalysts and solvents; and h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be

Provision	USMCA	NAFTA
	<p>demonstrated to be a part of that production.</p> <p>Article 4.9 Rule:</p> <ul style="list-style-type: none">• An indirect material shall be considered to be an originating material without regard to where it is produced.	<p>demonstrated to be a part of that production.</p> <p>Article 408 Rule:</p> <ul style="list-style-type: none">• An indirect material shall be considered to be an originating material without regard to where it is produced.



Overview

Any self-produced material that is used in the production of a good may be designated by the producer of the good as an intermediate material for purposes of calculating the regional value content of the good. There was no provisional change from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 4, Article 4.8
 - *HR 5430 Citation*: Title II, Section 202(a)(6) and 202(d)(9)
- **NAFTA**
 - *Final Text*: Chapter 4, Rules of Origin, Article 402(10)

Significant Changes in USMCA

Provision	USMCA	NAFTA
No Change	• No change from NAFTA to USMCA.	
No Accumulation	• If a self-produced material is designated as an intermediate material for purposes of calculating regional value content, no other self-produced material subject to a regional value content used or consumed in the production of that intermediate material may be designated as an intermediate material.	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Intermediate Materials	<ul style="list-style-type: none"> • Each Party shall provide that any self-produced material, other than a component identified in Table G of the Appendix to Annex 4-B (Product-Specific Rules of Origin), that is used in the production of a good may be designated by the producer of the good as an intermediate material for the purpose of calculating the regional value content of the good under paragraph 2 or 3 of Article 4.5 (Regional Value Content), provided that if the intermediate material is subject to a regional value content requirement, no other self-produced material subject to a regional value content requirement used in the production of that intermediate material may itself be designated by the producer as an intermediate material. 	<ul style="list-style-type: none"> • Except as provided in Article 403(1), any self-produced material, other than a component identified in Annex 403.2, that is used in the production of a good may be designated by the producer of the good as an intermediate material for the purpose of calculating the regional value content of the good under paragraph 2 or 3, provided that where the intermediate material is subject to a regional value-content requirement used in the production of that intermediate material may itself be designated by the producer as an intermediate material.



Overview

Fungible materials or goods are materials or goods that are interchangeable for commercial purposes and have essentially identical properties. This fact sheet highlights provisional changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text:* Chapter 4, Article 4.13
 - *HR 5430 Citation:* Title II, Section 202
- **NAFTA**
 - *Final Text:* Chapter 4, Rules of Origin, Article 406

Significant Changes in USMCA

Provision	USMCA	NAFTA
Language Change	<ul style="list-style-type: none"> • NAFTA and USMCA both include provisions for fungible materials or goods. • However, the USMCA replaces the NAFTA provisions with updated language. 	
Inventory Management Method	<ul style="list-style-type: none"> • When originating and non-originating fungible materials are used, the determination of whether the materials are originating is made on the basis of an inventory management method recognized in the Generally Accepted Accounting Principles of, or otherwise accepted by, the Party in which the production is performed the inventory management method selected must be used throughout the fiscal year of the producer or the person that selected the inventory management method. • When originating and non-originating fungible goods are commingled and exported in the same form, the determination of whether the goods are originating is made on the basis of an inventory management method recognized in the Generally Accepted Accounting Principles of, or otherwise accepted by, the Party from which the good is exported. 	
Other Requirements	<ul style="list-style-type: none"> • An importer may claim that a fungible material or good is originating if the importer, producer, or exporter has physically segregated each fungible material or good as to allow their specific identification. 	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Fungible Materials	<p>1. Each Party shall provide that a fungible material or good is originating if:</p> <ul style="list-style-type: none"> a) when originating and non-originating fungible materials are used in the production of a good, the determination of whether the materials are originating is made on the basis of an inventory management method recognized in the Generally Accepted Accounting Principles of, or otherwise accepted by, the Party in which the production is performed; or b) when originating and non-originating fungible goods are commingled and exported in the same form, the determination of whether the goods are originating is made on the basis of an inventory management method recognized in the Generally Accepted Accounting Principles of, or otherwise accepted by, the Party from which the good is exported. <p>2. The inventory management method selected under paragraph 1 must be used throughout the fiscal year of the producer or the person that selected the inventory management method.</p> <p>3. For greater certainty, an importer may claim that a fungible material or good is originating if the importer, producer, or exporter has physically segregated each fungible material or good as to allow their specific identification.</p>	<p>1. For purposes of determining whether a good is an originating good:</p> <ul style="list-style-type: none"> a) where originating and non-originating fungible materials are used in the production of a good, the determination of whether the materials are originating need not be made through the identification of any specific fungible material, but may be determined on the basis of any of the inventory management methods set out in the Uniform Regulations; and b) where originating and non-originating fungible goods are commingled and exported in the same form, the determination may be made on the basis of any of the inventory management methods set out in the Uniform Regulations.



Overview

A remanufactured good is a good classified in the Harmonized Tariff Schedule of the United States (HTSUS) Chapters 84 through 90, or under heading 94.02, except goods classified under the HTSUS headings: 84.18, 85.09, 85.10, and 85.16, 87.03, or subheadings: 8414.51, 8450.11, 8450.12, 8508.11, and 8517.11. In addition, a remanufactured good is entirely or partially composed of recovered materials; and: (a) has a similar life expectancy and performs the same as or similar to such a good when new and (b) has a factory warranty similar to that applicable to such a good. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 2, Article 2.11 and 2.12; Chapter 4, 4.4.2(a)
 - *HR 5430 Citation*: Title II, Section 202(a)(19) and (c)(2)
- **NAFTA**
 - Not Specified

Significant Changes in USMCA

Provision	USMCA	NAFTA
Differences/Changes	New to USMCA <ul style="list-style-type: none"> • Import and export restriction rules apply to remanufactured goods. • A party or parties may require that remanufactured goods are labeled as remanufactured goods. • Any prohibition on used goods shall not apply to remanufactured goods. • If a remanufactured good meets the rules of origin under Chapter 4, it will be treated as originating. 	No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Remanufactured Goods	Article 2.12: Remanufactured Goods <ol style="list-style-type: none"> 1. For greater certainty, Article 2.11.1 (Import and Export Restrictions) applies to prohibitions and restrictions on a remanufactured good. 2. Subject to its obligations under this Agreement and the WTO Agreement, a Party may require that a remanufactured good: <ol style="list-style-type: none"> a) be identified as such, including through labelling, for distribution or sale in its territory, and b) meet all applicable technical requirements that apply to an equivalent good in new condition. 3. If a Party adopts or maintains a prohibition or a restriction on a used good not apply the measure to a remanufactured good. Article 4.4: Treatment of Recovered Materials Used in the Production of a Remanufactured Good	No provision.

Provision	USMCA	NAFTA
	<p>1. Each Party shall provide that a recovered material derived in the territory of one or more of the Parties is treated as originating when used in the production of and incorporated into a remanufactured good.</p> <p>2. For greater certainty:</p> <ol style="list-style-type: none"> a) a remanufactured good is originating only if it satisfies the applicable requirements of Article 4.2 (Originating Goods); and b) a recovered material that is not used or incorporated in the production of a remanufactured good is originating only if it satisfies the applicable requirements of Article 4.2 (Originating Goods). <p>Article 2.11: Import and Export Restrictions</p> <p>1. Except as otherwise provided in this Agreement, no Party shall adopt or maintain any prohibition or restriction on the importation of any good of another Party or on the exportation or sale for export of any good destined for the territory of another Party, except in accordance with Article XI of the GATT 1994, including its interpretative notes, and to this end Article XI of the GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, <i>mutatis mutandis</i>.</p> <p>Article 4.2: Originating Goods</p> <ul style="list-style-type: none"> • Except as otherwise provided in this Chapter, each Party shall provide that a good is originating if it is: <ol style="list-style-type: none"> a) wholly obtained or produced entirely in the territory of one or more of the Parties, as defined in Article 4.3 (Wholly Obtained or Produced Goods); b) produced entirely in the territory of one or more of the Parties using non-originating materials provided the good satisfies all applicable requirements of Annex 4-B (Product-Specific Rules of Origin); c) produced entirely in the territory of one or more of the Parties exclusively from originating materials; or d) except for a good provided for in Chapter 61 to 63 of the Harmonized System: <ol style="list-style-type: none"> i. produced entirely in the territory of one or more of the Parties; ii. one or more of the non-originating materials provided for as parts under the Harmonized System used in the production of the good cannot satisfy the requirements set out in Annex 4-B (Product-Specific Rules of Origin) because both the good and its materials are classified in the same subheading or same heading that is not further subdivided into subheadings or, the good was imported into the territory of a Party in an unassembled or a disassembled form but was classified as an assembled good pursuant to rule 2(a) of the General Rules of Interpretation of the Harmonized System; and iii. the regional value content of the good, determined in accordance with Article 4.5 (Regional Value Content), is not less than 60 percent if the transaction value method is used, or not less than 50 percent if the net cost method is used; and the good satisfies all other applicable requirements of this Chapter. <p>HR 5430, Sec 202 (a) (19): Remanufactured Good</p>	

Provision	USMCA	NAFTA
	<ul style="list-style-type: none">• The term “remanufactured good” means a good classified in the HTS under any of chapters 84 through 90 or under heading 9402, other than a good classified under heading 8418, 8509, 8510, 8516, or 8703 or subheading 8414.51, 8450.11, 8450.12, 8508.11, or 2 8517.11, that<ol style="list-style-type: none">a) is entirely or partially composed of recovered materials;b) has a life expectancy similar to, and performs in a manner that is the same as or similar to, such a good when new; andc) has a factory warranty similar to that applicable to such a good when new.	



Overview

This is a new provision in the USMCA. The North American Free Trade Agreement (NAFTA) did not have a provision on sets of goods, kits or composite goods. In addition, there is no regulation in 19 CFR Part 181 covering this topic. However, observation of Rule 3 of the General Rules for the Interpretation of the Harmonized System means that this provision has not changed in practice.

References

- **USMCA**
 - *Final Text:* Chapter 4, Article 4.17
 - *HR 5430 Citation:* Title II, Section 202
- **NAFTA**
 - No provision

Significant Changes in USMCA

Provision	USMCA	NAFTA
Changes / Differences	<ul style="list-style-type: none"> • Change – The requirements of goods in the set for originating determination. 	<ul style="list-style-type: none"> • No provision
Requirements for Originating	<ul style="list-style-type: none"> • The set must be classified as a set as such pursuant to GRI 3. • Each good in the set is an originating good; and both the set and all goods in the set are originating goods OR if the value of all of the non-originating goods in the set does not exceed 10% of the value of the set. • The same calculation method must be used for the calculation of value of the non-originating good and the value of the set. 	<ul style="list-style-type: none"> • No provision
Exceptions	<ul style="list-style-type: none"> • Product-Specific Rules of Origin in Annex 4-B. • Textile and Apparel Goods under Articles 6.1.4 and 6.1.5. 	<ul style="list-style-type: none"> • No provision

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Sets of Goods, Kits or Composite Goods	<p>Article 4.17: Sets of Goods, Kits or Composite Goods</p> <ol style="list-style-type: none"> 1. Except as provided in Annex 4-B (Product-Specific Rules of Origin), each Party shall provide that for a set classified as a result of the application of rule 3 of the General Rules for the Interpretation of the Harmonized System, the set is originating only if each good in the set is originating and both the set and the goods meet the other applicable requirements of this Chapter. 2. Notwithstanding paragraph 1, for a set classified as a result of the application of rule 3 of the General Rules for the Interpretation of the Harmonized System, the set is originating if the value of all the non-originating goods in the set does not exceed 10 percent of the value of the set. 3. For the purposes of paragraph 2, the value of the non-originating goods in the set and the value of the set shall be calculated in the 	<ul style="list-style-type: none"> • No provision

Provision	USMCA	NAFTA
	<p>same manner as the value of non-originating materials and the value of the good.</p> <p>General Rules of Interpretation 3</p> <ul style="list-style-type: none"> • When, by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows: <ul style="list-style-type: none"> a) The heading which provides the most specific description shall be preferred to headings providing a more general description. <ul style="list-style-type: none"> i. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods. b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component, which gives them their essential character, insofar as this criterion is applicable. c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. 	
<p>Note: Comparing with Other Trade Agreements</p>	<ul style="list-style-type: none"> • Following a historical trend, in some of the other U.S. trade agreements, a provision on sets of goods has been added in; although the detailed requirements are slightly different. • The 19 CFR Part 10 has the same requirements for originating goods for CAFTA-DR (§10.605), Peru (§10.921), KORUS (§10.1021), Panama (§10.2021), and Colombia (§10.3021) as below: <ul style="list-style-type: none"> a) Each of the goods in the set is an originating good; or b) The total value of the non-originating goods in the set does not exceed: <ul style="list-style-type: none"> i. In the case of textile or apparel goods, 10 percent of the adjusted value of the set; or ii. In the case of a good other than a textile or apparel good, 15 percent of the adjusted value of the set. • There are some differences in the requirements between the 19 CFR Part 10 and USMCA: <ul style="list-style-type: none"> ○ For originating goods, the USMCA does not only require each of the goods in the set to be an originating good, but the set must also be originating. ○ The <i>de minimus</i> value is 10%, but not 15% for non-textile or apparel goods. 	<ul style="list-style-type: none"> • No provision



Overview

Accessories, spare parts, tools, or instructional or other information materials delivered with a good is treated as originating if the good is an originating good and is disregarded in calculating any applicable regional value content of the good set forth in Annex 4-B of the USMCA. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text:* Chapter 4, Article 4.14
 - *HR 5430 Citation:* Title II, Section 202
- **NAFTA**
 - *Final Text:* Chapter 4, Rules of Origin, Article 407

Significant Changes in USMCA

Provision	USMCA	NAFTA
Accessories	1. No change – NAFTA and USMCA both include this provision. 2. Additional language and requirements added in USMCA.	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Accessories	1. Each Party shall provide that: <ol style="list-style-type: none"> a) in determining whether a good is wholly obtained, or satisfies a process or change in tariff classification requirement as set out in Annex 4-B (Product-Specific Rules of Origin), accessories, spare parts, tools, or instructional or other information materials as described in paragraph 3, are to be disregarded; and b) in determining whether a good meets a regional value content requirement, the value of the accessories, spare parts, tools, or instructional or other information materials, as described in paragraph 3, are to be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good. 2. Each Party shall provide that a good’s accessories, spare parts, tools, or instructional or other information materials, as described in paragraph 3, have the originating status of the good with which they are delivered.	4. Accessories, spare parts or tools delivered with the good that form part of the good’s standard accessories, spare parts, or tools, shall be considered as originating if the good originates and shall be disregarded in determining whether all the non-originating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 401, provided that: <ol style="list-style-type: none"> a) the accessories, spare parts or tools are not invoiced separately from the good; b) the quantities and value of the accessories, spare parts or tools are customary for the good; and c) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts or tools shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

Provision	USMCA	NAFTA
	<p>3. For the purposes of this Article, accessories, spare parts, tools, or instructional or other information materials are covered when:</p> <ul style="list-style-type: none">a) the accessories, spare parts, tools, or instructional or other information materials are classified with, delivered with, but not invoiced separately from the good; andb) the types, quantities, and value of the accessories, spare parts, tools, or instructional or other information materials are customary for that good.	



Overview

This is a new provision in the USMCA. Although 19 CFR §181.132 "Disassembly" provides treatment equivalent to recovered materials, there is no specified rule in the North American Free Trade Agreement (NAFTA) covering a remanufactured good using originating recovered materials.

References

- **USMCA**
 - *Final Text*: Chapter 4, Article 4.4
 - *HR 5430 Citation*: Title II, Section 202(a)(18)
- **NAFTA**
 - 19 CFR §181.132

Significant Changes in USMCA

Provision	USMCA	NAFTA
Changes / Differences	<ul style="list-style-type: none"> • New <ul style="list-style-type: none"> ○ The HR 5430, Sec. 202 (a) (18) has a specific definition of recovered materials, but there is no specific definition in NAFTA and related statute or regulation. ○ There is a specific requirement to qualify for originating treatment for a remanufactured good that is using originating recovered materials. • Same <ul style="list-style-type: none"> ○ Requirements of originating treatment for recovered materials. 	
Requirements for Originating Treatment	<ul style="list-style-type: none"> • Recovered materials are disassembled parts only from a used good; and must undergo processing to improve into sound working condition. • If the recovered material derived in one or more of the three countries, when used or consumed in the production of, and incorporated into a remanufactured good, is originating. • If the recovered material is not used for the remanufacture of a good, the recovered material is only originating if it meets all other applicable requirements for originating goods under the USMCA. 	<ul style="list-style-type: none"> • If a recovered component is disassembled from a good within one or more of the three countries, the recovered component is treated as originating. However, if the recovered component is from a new good, then the recovered good is not treated as originating.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Recovered Materials	<p>Article 4.4: Treatment of Recovered Materials Used in the Production of a Remanufactured Good</p> <ol style="list-style-type: none"> 1. Each Party shall provide that a recovered material derived in the territory of one or more of the Parties is treated as originating when it is used in the production of, and incorporated into, a remanufactured good. 2. For greater certainty: <ol style="list-style-type: none"> a) a remanufactured good is originating only if it satisfies the applicable requirements of Article 4.2 (Originating Goods); and b) a recovered material that is not used or incorporated in the production of a remanufactured good is originating only if it satisfies the applicable requirements of Article 4.2 (Originating Goods). <p>HR 5430, Sec 202 (a) (18) Recovered Material</p> <ul style="list-style-type: none"> • The term “recovered material” means a material in the form of individual parts that are the result of: <ol style="list-style-type: none"> a) the disassembly of a used good into individual parts; and b) the cleaning, inspecting, testing, or other processing that is necessary for improvement to sound working condition of such individual parts. <p>Article 4.2: Originating Goods</p> <ul style="list-style-type: none"> • Except as otherwise provided in this Chapter, each Party shall provide that a good is originating if it is: <ol style="list-style-type: none"> a) wholly obtained or produced entirely in the territory of one or more of the Parties, as defined in Article 4.3 (Wholly Obtained or Produced Goods); b) produced entirely in the territory of one or more of the Parties using non-originating materials provided the good satisfies all applicable requirements of Annex 4-B (Product-Specific Rules of Origin); c) produced entirely in the territory of one or more of the Parties exclusively from originating materials; or d) except for a good provided for in Chapter 61 to 63 of the Harmonized System: <ol style="list-style-type: none"> i. produced entirely in the territory of one or more of the Parties; ii. one or more of the non-originating materials provided for as parts under the Harmonized System used in the 	<p>§181.132 Disassembly.</p> <ol style="list-style-type: none"> a. Treated as production. For purposes of implementing the rules of origin provisions of General Note 12, HTSUS, and Chapter Four of the NAFTA, except as provided in paragraph (b) of this section, disassembly is considered to be production, and a component recovered from a good disassembled in the territory of a Party will be considered to be originating as the result of such disassembly provided that the recovered component satisfies all applicable requirements of Annex 401 and this part. b. Exception; new goods. Disassembly, as provided in paragraph (a) of this section, will not be considered production in the case of components that are recovered from new goods. For purposes of this paragraph, a “new good” means a good which is in the same condition as it was when it was manufactured and which meets the commercial standards for new goods in the relevant industry.

Provision	USMCA	NAFTA
	<p>production of the good cannot satisfy the requirements set out in Annex 4-B (Product-Specific Rules of Origin) because both the good and its materials are classified in the same subheading or same heading that is not further subdivided into subheadings or, the good was imported into the territory of a Party in an unassembled or a disassembled form but was classified as an assembled good pursuant to rule 2(a) of the General Rules of Interpretation of the Harmonized System; and</p> <p>iii. the regional value content of the good, determined in accordance with Article 4.5 (Regional Value Content), is not less than 60 percent if the transaction value method is used, or not less than 50 percent if the net cost method is used; and</p> <p>e) the good satisfies all other applicable requirements of this Chapter.</p>	



Overview

For most goods, the USMCA provides two Regional Value Content (RVC) calculation methods: (1) the transaction value method and (2) the net cost method. While the two calculation methods have not changed, this fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

The **Transaction Value Method**: $RVC = (TV - VNM) / TV \times 100$ where

- RVC is the regional value content, expressed as a percentage;
- TV is the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good; and
- VNM is the value of non-originating materials including materials of undetermined origin used by the producer in the production of the good.

The **Net Cost Method**: $RVC = (NC - VNM) / NC \times 100$ where

- RVC is the regional value content, expressed as a percentage;
- NC is the net cost of the good; and
- VNM is the value of non-originating materials including materials of undetermined origin used by the producer in the production of the good.

References

- **USMCA**
 - *Final Text*: Chapter 4, Article 4.5
 - Annex 4-B
- **NAFTA**
 - General Note 12(c)

Significant Changes in USMCA

Provision	USMCA	NAFTA
Calculation Method	No change – The formulas used to calculate regional value content have not changed.	
Responsible Party	USMCA adds that the importer may also calculate RVC, not only the producer or exporter.	The exporter or producer of the good has the option to calculate the regional value content.
RVC Threshold	The regional value content of the non-textile good (not including auto and auto parts) is equal or less than 60 percent if the transaction value method is used, is equal or less than 50 percent if the net cost method is used. There is an exception for Chapters 61-63, which is also in NAFTA.	A good shall originate provided that the regional value content of the good is not less than 60 percent where the transaction value method is used, or is not less than 50 percent where the net cost method is used.
Limitations for Calculation Method	USMCA states that some sectors are limited to one method (e.g., automotive sector must use net cost method for passenger vehicles, light trucks, and heavy trucks).	The NAFTA rules of origin for automotive products require that the regional value content for these products be calculated using the net cost method. A complete list of such goods may be found in General Note 12.
Non-Originating Materials	A new rule in the USMCA provides that, where a non-originating material is used in the production of a good, the following may be counted as originating content for purposes of calculating RVC (under either method):	No provision.

Provision	USMCA	NAFTA
	<ol style="list-style-type: none"> 1. The value of processing of the non-originating materials undertaken in the territory of one or more of the Parties; and 2. The value of any originating material used in the production of the non-originating material undertaken in the territory of one or more of the Parties. 	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
RVC Calculation	<p>Each Party shall provide that the regional value content of a good shall be calculated, at the choice of the importer, exporter, or producer of the good, on the basis of either the transaction value method or the net cost method.</p> <p>Each Party shall provide that if a non-originating material is used in the production of a good, the following may be counted as originating content for the purpose of determining whether the good meets a regional value content requirement:</p> <ol style="list-style-type: none"> a) the value of processing of the non-originating materials undertaken in the territory of one or more of the Parties; and b) the value of any originating material used in the production of the non-originating material undertaken in the territory of one or more of the Parties. <p><i>(Reference: Article 4.5)</i></p>	<p>The regional value content of a good shall be calculated, at the choice of the exporter or producer of such good, on the basis of either the transaction value method or the net cost method.</p> <p>Except as provided in subdivisions (d)(i) and (d)(ii)(A)(2) of this note, the value of non-originating materials used by the producer in the production of a good shall not, for purposes of calculating the regional value content of the good under subdivision (c)(i) or (c)(ii) of this note, include the value of non-originating materials used to produce originating materials that are subsequently used in the production of such good.</p> <p><i>(Reference: General Note 12 (c))</i></p>



Overview

The accumulation provision allows the producer or exporter of goods to choose to include as part of the goods' regional value content any regional value added by suppliers of non-originating materials used to produce the final goods. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text:* Chapter 4, Article 4.11
- **NAFTA**
 - *Final Text:* Chapter 4, Article 404
 - General Note 12(e)

Significant Changes in USMCA

Provision	USMCA	NAFTA
Accumulation Rules	USMCA allows the production undertaken on a non-originating material in the territory of one of the parties to contribute toward the originating status of a good regardless of whether that production was sufficient to confer originating status to the material itself.	All non-originating materials used in the production of the goods must undergo the tariff classification change set out in Annex 401 of the Agreement, entirely in the territory of one or more of the NAFTA countries.
Production on a Non-Originating Material	Production undertaken on a non-originating material in one or more of the Parties contributes to the originating status of the good, regardless of whether that production was sufficient to confer originating status to the material itself.	Production of the good in the territory of Canada, Mexico, and/or the United States by one or more producers shall, at the choice of the exporter or producer of the good for which preferential tariff treatment is claimed, be considered to have been performed in the territory of a NAFTA party by that exporter or producer, provided that all applicable requirements are met.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Accumulation	<p>1. Each Party shall provide that a good is originating if the good is produced in the territory of one or more of the Parties by one or more producers, provided that the good satisfies the requirements of Article 4.2 (Originating Goods) and all other applicable requirements in this Chapter.</p> <p>2. Each Party shall provide that an originating good or material of one or more of the Parties is considered as originating in the territory of another Party when used as a material in the production of a good in the territory of another Party.</p> <p>3. Each Party shall provide that production undertaken on a non-originating material in the territory of one or more of the Parties may contribute toward the originating status of a good, regardless of whether that production was sufficient to confer originating status to the material itself.</p> <p><i>(Reference: USMCA Article 4.11)</i></p>	<p>1. For purposes of determining whether a good is an originating good, the production of the good in the territory of Canada, Mexico and/or the United States by one or more producers shall, at the choice of the exporter or producer of the good for which preferential tariff treatment is claimed, be considered to have been performed in the territory of a NAFTA party by that exporter or producer, provided that:</p> <ul style="list-style-type: none"> a) all non-originating materials used in the production of the good undergo an applicable tariff classification set out in subdivision (t) of this note, b) the good satisfies any applicable regional value-content requirement, entirely in the territory of one or more of the NAFTA parties; and c) the good satisfies all other applicable requirements of this note. <p>2. For purposes of subdivision (c)(viii) of this note, the production of a producer that chooses to accumulate its production with that of other producers under subdivision (e)(i) shall be considered to be the production of a single producer.</p> <p><i>(Reference: General Note 12 (e))</i></p>



Overview

The application of *de minimis* involves the allowance of a small percentage of non-originating materials (fibers and yarns) that do not meet the tariff change rule (TCR) to be used in qualifying goods.

The new United States-Mexico-Canada Agreement (USMCA) increases *de minimis* from 7% under the former North American Free Trade Agreement (NAFTA) up to 10%. The NAFTA and the USMCA contain a list of products that are ineligible for *de minimis* exemptions.

References

- USMCA
- Final Text: Chapter 4, Article 4.12; Chapter 6, Articles 6.1.2 and 6.1.3
- HR 5430 Citation: Title II, Section 202(f)
- General Note 11
NAFTA
- Final Text: Chapter 4, Article 405
- General Note 12

Significant Changes in USMCA

Table with 3 columns: Provision, USMCA, and NAFTA. Rows include De Minimis Percentage, De Minimis Exceptions (Elastomeric Yarn), Fabric Forward, and Fibers and Yarns.

Provision	USMCA	NAFTA
	<p>this Chapter and Chapter 4 (Rules of Origin).</p> <ul style="list-style-type: none"> A textile or apparel good classified in Chapters 61 through 63 of the Harmonized System that contains non-originating fibers or yarns in the component of the good that determines the tariff classification of the good that do not satisfy the applicable change in tariff classification set out in Annex 4-B (Product-Specific Rules of Origin), shall nonetheless be considered to be an originating good if the total weight of all of those fibers or yarns is not more than 10 percent of the total weight of that component, of which the total weight of elastomeric content may not exceed 7 percent of the total weight of the good, and the good meets all other applicable requirements of this Chapter and Chapter 4 (Rules of Origin). 	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
<i>De Minimis</i>	<ol style="list-style-type: none"> Except as provided in Annex 4-A (Exceptions to Article 4.12 (<i>De Minimis</i>)), each Party shall provide that a good is an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex 4-B (Product-Specific Rules of Origin) is not more than 10 percent: <ol style="list-style-type: none"> of the transaction value of the good adjusted to exclude any costs incurred in the international shipment of the good; or of the total cost of the good, provided that the good satisfies all other applicable requirements of this Chapter. If a good described in paragraph 1 is also subject to a regional value content requirement, the value of those non-originating materials shall be included in the value of non-originating materials for 	<ol style="list-style-type: none"> Except as provided in paragraphs 3 through 6, a good shall be considered to be an originating good if the value of all non-originating materials used in the production of the good that do not undergo an applicable change in tariff classification set out in Annex 401 is not more than seven percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value is unacceptable under Article 1 of the Customs Valuation Code, the value of all such non-originating materials is not more than seven percent of the total cost of the good, provided that: <ol style="list-style-type: none"> if the good is subject to a regional value-content requirement, the value of such non-originating materials shall be taken into account in calculating the regional value content of the good; and the good satisfies all other applicable requirements of this Chapter. A good that is otherwise subject to a regional value-content requirement shall not be required to satisfy such

Provision	USMCA	NAFTA
	<p>the applicable regional value content requirement.</p> <p>3. A good that is otherwise subject to a regional value content requirement shall not be required to satisfy the requirement if the value of all non-originating materials used in the production of the good is not more than 10 percent of the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good, or the total cost of the good, provided that the good satisfies all other applicable requirements of this Chapter.</p>	<p>requirement if the value of all non-originating materials used in the production of the good is not more than seven percent of the transaction value of the good, adjusted to a F.O.B. basis, or, if the transaction value of the good is unacceptable under Article 1 of the Customs Valuation Code, the value of all non-originating materials is not more than seven percent of the total cost of the good, provided that the good satisfies all other applicable requirements of this Chapter.</p>



Overview

Textile and apparel goods put up in sets for retail sale, classified as result of the application of Rule 3 of the General Rules of Interpretation under the HTSUS, shall not be regarded as originating unless each good in the set is an originating good or the total value of the non-originating goods in the set does not exceed 10 percent of the value of the set (determined under General Note 11). This is a new provision under the new United States-Mexico-Canada Agreement (USMCA) and there is no such provision in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 6, Articles 6.1.4 and 6.1.5
 - *HR 5430 Citation*: Title II, Section 202(m)(2)(A) or (B)
 - General Note 11
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Treatment of Sets (Textiles)	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • Textile and apparel goods put up in sets for retail sale, classified per the application of Rule 3 of the General Rules of Interpretation, are considered originating if each of the goods in the set is an originating good or the total value of the non-originating goods in the set does not exceed 10 percent of the value of the set. 	<ul style="list-style-type: none"> • No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Treatment of Sets (Textiles)	<p>Article 6.1</p> <p>4. Notwithstanding the product-specific rules of origin set out in Annex 4-B (Product-Specific Rules of Origin), textile and apparel goods put up in sets for retail sale, classified as a result of the application of Rule 3 of the General Rules for the Interpretation of the Harmonized System, shall not be originating goods unless each of the goods in the set is an originating good or the total value of the non-originating goods in the set does not exceed 10 percent of the value of the set.</p> <p>5. For the purposes of paragraph 4:</p> <ul style="list-style-type: none"> a) the value of non-originating goods in the set shall be calculated in the same manner as the value of non-originating materials in Chapter 4 (Rules of Origin); and b) the value of the set shall be calculated in the same manner as the value of the good in Chapter 4 (Rules of Origin). 	<ul style="list-style-type: none"> • No provision.



Overview

This provision applies to articles of Chapter 63 which allows coated or laminated fabrics used in the assembly of a textile article of Chapter 63 to be of any source. However, effective 18 months after entry-into-force of the USMCA Agreement, a good of Chapter 63 that is made of fabric classified in 5903, will be considered originating if all of the fabrics used in the production of the fabrics of heading 5903 are formed and finished one or more of the parties to the Agreement, with exceptions.

The provision applies to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good.

This is a new provision under the new United States-Mexico-Canada Agreement (USMCA). There was no such provision in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 4, Annex 4-B, Section XI
 - *HTSUS*: Chapter 63, Note 2
 - General Note 11
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Coated Fabrics of Chapter 63	<p>New to USMCA</p> <ul style="list-style-type: none"> • Upon entry into force of the USMCA Agreement, fabrics of heading 59.03, used in a good of chapter 63, can be sourced from anywhere. • However, effective eighteen (18) months after entry-into-force, a good of Chapter 63 made of fabric classified in 5903, is considered to be originating only if all the fabrics used in the production of the fabrics of heading 5903 are formed and finished in Canada, Mexico or the United States. • Exceptions: <ul style="list-style-type: none"> ○ 6305 – Bags; ○ 6306.12 – Tarpaulins, awnings, and sun-blinds of synthetic fibers; and ○ 6306.22 – Tents of synthetic fibers, and miscellaneous made-up articles of subheading 6307.90 that are not surgical towels or national flags. 	<ul style="list-style-type: none"> • No provision.





Overview

Narrow elastic fabrics of 5806.20 and 6002, HTSUS, must be formed from yarn and finished, or formed and finished from yarn in the USMCA region for apparel products of Chapters 61 and 62.

The provision applies to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good.

This is a new provision under the new United States-Mexico-Canada Agreement (USMCA) and there is no such provision in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 4, Annex 4-B, Section XI
 - *HTSUS*: Section XI, Chapter 61, Note 2, Chapter 62, Note 3
 - General Note 11
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Narrow Elastic Fabric	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • Effective 18 months after the date of entry into force of the USMCA, articles of apparel and clothing accessories under Chapters 61 and 62, HTSUS, containing fabrics of subheading 5806.20 or heading 6002, will be considered originating only if: <ul style="list-style-type: none"> ○ Such fabrics are both formed from yarn and finished or formed and finished from yarn in the territory of one or more of the Parties, and ○ if all production processes and finishing operations, starting with the weaving, knitting, needling, tufting, or other process, and ending with the fabric ready for cutting or assembly without further processing, took place in the territories of one or more of the USMCA countries, even if non-originating yarn is used in the production of the fabric of subheading 5806.20 or heading 60.02. • The good must also satisfy the applicable tariff shift requirement(s). 	<ul style="list-style-type: none"> • Under NAFTA, there are no origin restrictions of narrow elastic fabric of subheading 5806.20 or heading 6002.



Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Narrow Elastic Fabric	<ul style="list-style-type: none">• Upon entry into force of USMCA, narrow elastic fabric of subheading 5806.20 or heading 6002, may be sourced from anywhere.• However, effective 18 months after the date of entry into force of the agreement, apparel containing narrow elastic fabrics of subheading 5806.20 or heading 6002 will be considered originating only if such fabrics are both formed from yarn and finished, or formed and finished from yarn in the territory of one or more of the Parties.	<ul style="list-style-type: none">• No origin restrictions.



Overview

Rayon fibers and/or rayon filaments may be of any origin when used in a good classified in Chapter 50 through 63, provided that the good(s) otherwise meets the applicable product specific rule.

This is a new provision under the new United States-Mexico-Canada Agreement (USMCA) and there is no such provision in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 4, Annex 4-B, Section XI, Note 2
 - General Note 11
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Rayon Fiber and Filament	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • Rayon fibers, other than lyocell or acetate, of heading 5503 or 5405, and rayon filaments, other than lyocell or acetate, of heading 5502, 5504, or 5507, may be of any origin when used in a good classified in Chapter 50 through 63, provided that the good otherwise meets the applicable product specific rule. 	<ul style="list-style-type: none"> • No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Rayon Fiber and Filament	<ul style="list-style-type: none"> • A good classified in Chapter 50 through 63 shall be considered originating, notwithstanding the origin of the following materials, provided that the good otherwise meets the applicable product specific rule: <ol style="list-style-type: none"> a) rayon filament, other than lyocell or acetate, of heading 54.03 or 54.05, or b) rayon fiber, other than lyocell or acetate, of heading 55.02, 55.04, or 55.07. 	<ul style="list-style-type: none"> • No provision.



Overview

This provision refers to articles of clothing in Chapters 61 and 62 that must be assembled using sewing thread of the Parties to the Agreement. The provision applies to the component that determines the tariff classification of the good and such component must satisfy the tariff change requirements set out in the rule for that good. This is a new provision under the new United States-Mexico-Canada Agreement (USMCA) and there is no such provision in the North American Free Trade Agreement (NAFTA).

Processing: sewing thread is considered formed and finished in the territory of one or more Parties if all production processes and finishing operations, starting with the extrusion of filaments, strips, film or sheet, and including slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with the finished single or plied thread ready for use for sewing without further processing, took place in the territories of one or more of the USMCA countries even if non-originating fiber is used in the production of sewing thread of heading 52.04, 54.01 or 55.08, or yarn of heading 54.02 used as sewing thread

References

- **USMCA**
 - *Final Text*: Chapter 4, Annex 4-B, Section XI
 - *HTSUS*: Chapter 61, Note 3 and Chapter 62, Note 4
 - General Note 11
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Sewing Thread	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • An article of apparel or clothing accessory of Chapter 61 or Chapter 62 that contains sewing thread of headings 52.04 (cotton), 54.01 (man-made filaments), or 55.08 (man-made staple fiber), or yarn of heading 54.02 (synthetic filament yarn) used as sewing thread shall be considered originating only if such sewing thread is both formed and finished in the territory of one or more of the Parties. 	<ul style="list-style-type: none"> • No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Sewing Thread	<ul style="list-style-type: none"> • Upon entry into force of USMCA, sewing thread of headings 5204, 5401 or 5508, or yarn of heading 5402 (used as sewing thread), may be sourced from anywhere. • However, effective 12 months after the date of entry into force of the agreement, apparel and clothing accessories of Chapter 61 or Chapter 62 containing sewing thread of headings 5204, 5401 or 5508, or yarn of heading 5402 (used as sewing thread), shall be considered originating only if such sewing thread is both formed and finished in the territory of one or more of the Parties. 	<ul style="list-style-type: none"> • No provision.





Overview

This provision addresses requirements where certain fabrics, when used as visible lining in certain garments (i.e., overcoats, anoraks, suits, jackets, skirts and similar articles), must be formed from yarn and finished in the territory of one or more of the Parties to the Agreement.

This is a new provision under the new United States-Mexico-Canada Agreement (USMCA) and there is no such provision in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - General Note 11
- **NAFTA**
 - General Note 12
 - Chapter 61, Rule 1
 - Chapter 62, Rule 1

Significant Changes in USMCA

Provision	USMCA	NAFTA
Visible Lining	<ul style="list-style-type: none"> • USMCA eliminates the visible lining rule and allows visible linings in certain apparel to be sourced from outside the Parties to the Agreement. 	<ul style="list-style-type: none"> • Under NAFTA, fabric used for visible linings in certain apparel of Chapters 61 and 62, such as suits, coats and skirts must be sourced from the United States, Mexico, or Canada to be considered originating.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Visible Lining	<ul style="list-style-type: none"> • Upon entry into force, visible linings in certain apparel may be sourced from outside the Parties to the Agreement. 	<ul style="list-style-type: none"> • Certain visible linings must be sourced from one or more of the Parties to the Agreement.





Overview

The new United States-Mexico-Canada Agreement (USMCA) allows importers to complete a certification of origin to include nine required data elements as well as a certification statement. These data elements do not need to follow a prescribed format. The USMCA also allows a certification of origin to be completed and signed with an electronic or digital signature.

These new requirements mark a change from the North American Free Trade Agreement (NAFTA), which required a uniform Certificate of Origin (CBP Form 434) that could only be signed by the exporter/producer of the goods. In addition, NAFTA certificates required a wet signature and did not allow electronic signature.

References

- **USMCA**
 - *Final Text*: Chapter 5, Articles 5.3, 5.4, 5.7, and Annex 5-A
- **NAFTA**
 - *Final Text*: Chapter 5, Articles 501, 502, and 504
 - *CFR*: 19 CFR 181.11

Significant Changes in USMCA

Provision	USMCA	NAFTA
Basis of a Certification of Origin	<p>Change from NAFTA</p> <ul style="list-style-type: none"> • The certification of origin may be completed by the importer, producer, or exporter of the good. 	<ul style="list-style-type: none"> • The Certificate of Origin must be completed and signed by the exporter/producer of the good.
Certificate of Origin Template	<ul style="list-style-type: none"> • The USMCA does not require a certificate – CBP Form 434. • Rather, the certification of origin must contain the nine (9) minimum data elements set forth in Annex 5-A and meet other requirements of Chapter 5. 	<ul style="list-style-type: none"> • Under NAFTA, Canada, Mexico and the United States established a uniform Certificate of Origin that is used in all three countries to certify that imported goods qualify for preferential tariff treatment
Minimum Data Elements	<p>No change</p> <ul style="list-style-type: none"> • The 9 minimum data elements include: <ul style="list-style-type: none"> ○ (1-5) information about the certifier, exporter, producer, and importer of the good; ○ (6) description and Harmonized Tariff System (HTS) classification of the good to the 6-digit level; ○ (7) the origin criteria under which the good qualifies; ○ (8) the blanket period (if the certification covers multiple shipments); and ○ (9) Authorized signature and date. 	



Provision	USMCA	NAFTA
Single or Multiple Shipments and Threshold Value	<p>No change</p> <ul style="list-style-type: none"> A certification of origin may apply to a single shipment or to multiple shipments of identical goods within a 12-month period and must be accepted by a Party's customs administration for four years after its completion. The USMCA does not modify the threshold value (USD \$1,000) below which a certification of origin is not required. 	
Electronic Submission and Signature	<ul style="list-style-type: none"> The USMCA allows a certification of origin to be completed and submitted electronically and signed with an electronic or digital signature. 	<ul style="list-style-type: none"> NAFTA did not accept Certificates signed using electronic or digital signature
Additional Obligations	<ul style="list-style-type: none"> The USMCA authorizes a Party to request that importers prove that goods have been shipped in accordance with Article 4.18 of the Agreement (Rules of Origin – Transit and Transshipment). 	<ul style="list-style-type: none"> NAFTA transit and transshipment obligations required Customs control of good in third party country.
Errors and Discrepancies	<ul style="list-style-type: none"> Each Party shall provide that it shall not reject a certification of origin due to minor errors or discrepancies. The importer shall be granted a period of not less than five working days to provide the customs administration with a copy of the corrected certification of origin. 	<ul style="list-style-type: none"> No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Basis of a Certification of Origin	<ol style="list-style-type: none"> Each Party shall provide that if a producer certifies the origin of a good, the certification of origin is completed on the basis of the producer having information, including documents, that demonstrate that the good is originating. Each Party shall provide that if the exporter is not the producer of the good, the certification of origin may be completed by the exporter of the good on the basis of: <ol style="list-style-type: none"> having information, including documents, that demonstrate that the good is originating; or reasonable reliance on the producer's written representation, such as in a certification of origin, that the good is originating. Each Party shall provide that a certification of origin may be completed 	<ol style="list-style-type: none"> The Parties shall establish by January 1, 1994 a Certificate of Origin for the purpose of certifying that a good being exported from the territory of a Party into the territory of another Party qualifies as an originating good, and may thereafter revise the Certificate by agreement. Each Party may require that a Certificate of Origin for a good imported into its territory be completed in a language required under its law. Each Party shall: <ol style="list-style-type: none"> require an exporter in its territory to complete and sign a Certificate of Origin for any exportation of a good for which an importer may claim preferential tariff treatment on importation of the good into the territory of another Party; and

Provision	USMCA	NAFTA
	<p>by the importer of the good on the basis of the importer having information, including documents, that demonstrate that the good is originating.</p> <p>4. For greater certainty, nothing in paragraph 1 or 2 shall be construed to allow a Party to require an exporter or producer to complete a certification of origin or provide a certification of origin or a written representation to another person.</p> <p>5. Each Party shall provide that a certification of origin may apply to:</p> <p>a) a single shipment of a good into the territory of a Party; or</p> <p>b) multiple shipments of identical goods within any period specified in the certification of origin, but not exceeding 12 months.</p> <p>6. Each Party shall provide that a certification of origin for a good imported into its territory be accepted by its customs administration for four years after the date the certification of origin was completed.</p> <p><i>(Reference: Chapter 5, Article 5.3)</i></p>	<p>b) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign a Certificate on the basis of:</p> <p>i. its knowledge of whether the good qualifies as an originating good,</p> <p>ii. its reasonable reliance on the producer's written representation that the good qualifies as an originating good, or</p> <p>iii. a completed and signed Certificate for the good voluntarily provided to the exporter by the producer.</p> <p>4. Nothing in paragraph 3 shall be construed to require a producer to provide a Certificate of Origin to an exporter.</p> <p>5. Each Party shall provide that a Certificate of Origin that has been completed and signed by an exporter or a producer in the territory of another Party that is applicable to:</p> <p>a) a single importation of a good into the Party's territory, or</p> <p>b) multiple importations of identical goods into the Party's territory that occur within a specified period, not exceeding 12 months, set out therein by the exporter or producer, shall be accepted by its customs administration for four years after the date on which the Certificate was signed.</p> <p><i>(Reference: Chapter 5, Article 501)</i></p>



Overview

The new United States-Mexico-Canada Agreement (USMCA) includes additional language related to procedures for conducting origin verifications via documentation and visits that was not present in the previous North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 5, Articles 5.9
 - *Textiles Final Text*: Chapter 6, Article 6.6 and Chapter 7, Article 7.27
 - *HR 5430 Citation*: Title II, Section 207
- **NAFTA**
 - *Final Text*: Chapter 5, Section B, Article 506

Significant Changes in USMCA

Provision	USMCA	NAFTA
Additional Language	<ul style="list-style-type: none"> • USMCA has the same meaning with additional language. • USMCA, for textile or apparel goods, in addition to verification procedures set out in Article 5.9, an importing party may request a site visit. <ul style="list-style-type: none"> ○ Specific procedures for these visit are set forth in Article 6.6 	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Origin Verification	<p>1. For the purpose of determining whether a good imported into its territory is an originating good, the importing Party may, through its customs administration, conduct a verification of a claim for preferential tariff treatment by one or more of the following:</p> <ul style="list-style-type: none"> a) a written request or questionnaire seeking information, including documents, from the importer, exporter, or producer of the good; b) a verification visit to the premises of the exporter or producer of the good in order to request information, including documents, and to observe the production process and the related facilities; c) for a textile or apparel good, the procedures set out in Article 6.6 (Verification); or d) any other procedure as may be decided by the Parties. 	<p>1. For purposes of determining whether a good imported into its territory from the territory of another Party qualifies as an originating good, a Party may, through its customs administration, conduct a verification solely by means of:</p> <ul style="list-style-type: none"> a) written questionnaires to an exporter or a producer in the territory of another Party; b) visits to the premises of an exporter or a producer in the territory of another Party to review the records referred to in Article 505(a) and observe the facilities used in the production of the good; or



Provision	USMCA	NAFTA
	<p>2. The importing Party may choose to initiate a verification under this Article to the importer or the person who completed the certification of origin.</p> <p>3. If an importing Party conducts a verification under this Article, it shall accept information, including documents, directly from the importer, exporter, or producer.</p> <p>4. If a claim for preferential tariff treatment is based on a certification of origin completed by the exporter or producer, and in response to a request for information by an importing Party to determine whether a good is originating in verifying a claim of preferential treatment under paragraph 1(a), the importer does not provide sufficient information to demonstrate that the good is originating, the importing Party shall request information from the exporter or producer under paragraph 1 before it may deny the claim for preferential tariff treatment. The importing Party shall complete the verification, including any additional request to the exporter or producer under paragraph 1, within the time provided in paragraph 15.</p> <p>5. A written request or questionnaire seeking information, including documents, or a request for a verification visit, under paragraphs 1(a) or (b) shall:</p> <ul style="list-style-type: none"> a) include the identity of the customs administration issuing the request; b) state the object and scope of the verification, including the specific issue the requesting Party seeks to resolve with the verification; c) include sufficient information to identify the good that is being verified; and (d) in the case of a verification visit, request the written consent of the exporter or producer whose premises are going to be visited and indicate: <ul style="list-style-type: none"> i. the legal authority for the visit, ii. the proposed date and location for the visit, iii. the specific purpose of the visit, and iv. the names and titles of the officials performing the visit. <p>6. If an importing Party has initiated a verification under paragraph 1(a) or 1(b) other than to the</p>	<p>c) such other procedure as the Parties may agree.</p> <p>2. Prior to conducting a verification visit pursuant to paragraph (1)(b), a Party shall, through its customs administration:</p> <ul style="list-style-type: none"> a) deliver a written notification of its intention to conduct the visit to <ul style="list-style-type: none"> i. the exporter or producer whose premises are to be visited, ii. the customs administration of the Party in whose territory the visit is to occur, and iii. if requested by the Party in whose territory the visit is to occur, the embassy of that Party in the territory of the Party proposing to conduct the visit; and b) obtain the written consent of the exporter or producer whose premises are to be visited. <p>3. The notification referred to in paragraph 2 shall include:</p> <ul style="list-style-type: none"> a) the identity of the customs administration issuing the notification; b) the name of the exporter or producer whose premises are to be visited; c) the date and place of the proposed verification visit; d) the object and scope of the proposed verification visit, including specific reference to the good that is the subject of the verification; e) the names and titles of the officials performing the verification visit; and f) the legal authority for the verification visit. <p>4. Where an exporter or a producer has not given its written consent to a proposed verification visit within 30 days of receipt of notification pursuant to paragraph 2, the notifying</p>

Provision	USMCA	NAFTA
	<p>importer, it shall inform the importer of the initiation of the verification.</p> <p>7. For a verification under paragraph 1(a) or 1(b), the importing Party shall:</p> <ol style="list-style-type: none"> a) ensure that the written request for information, or documentation to be reviewed, is limited to information and documentation to determine whether the good is originating; b) describe the information or documentation in detail to allow the importer, exporter, or producer to identify the information and documentation necessary to respond; c) allow the importer, exporter, or producer at least 30 days from the date of receipt of the written request or questionnaire under paragraph 1(a) to respond; and d) allow the exporter or producer 30 days from the date of receipt of the written request for a visit under paragraph 1(b) to consent to or refuse the request. <p>8. On request of the importing Party, the Party where the exporter or producer is located may, as it deems appropriate and in accordance with its laws and regulations, assist with the verification. This assistance may include providing information it has that is relevant to the origin verification. The importing Party shall not deny a claim for preferential tariff treatment solely on the grounds that the Party where the exporter or producer is located did not provide requested assistance.</p> <p>9. If an importing Party initiates a verification under paragraph 1(b), it shall, at the time of the request for the visit under paragraph 5, provide a copy of the request to:</p> <ol style="list-style-type: none"> a) the customs administration of the Party in whose territory the visit is to occur; and b) if requested by the Party in whose territory the visit is to occur, the embassy of that Party in the territory of the Party proposing to conduct the visit. <p>10. Each Party shall provide that, when the exporter or producer receives notification pursuant to paragraph 5, the exporter or producer may, on a single occasion, within 15 days of receipt of the notification, request the postponement of the proposed verification visit for a period not</p>	<p>Party may deny preferential tariff treatment to the good that would have been the subject of the visit.</p> <p>5. Each Party shall provide that, where its customs administration receives notification pursuant to paragraph 2, the customs administration may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the date of such receipt, or for such longer period as the Parties may agree.</p> <p>6. A Party shall not deny preferential tariff treatment to a good based solely on the postponement of a verification visit pursuant to paragraph 5.</p> <p>7. Each Party shall permit an exporter or a producer whose good is the subject of a verification visit by another Party to designate two observers to be present during the visit, provided that:</p> <ol style="list-style-type: none"> a) the observers do not participate in a manner other than as observers; and b) the failure of the exporter or producer to designate observers shall not result in the postponement of the visit. <p>8. Each Party shall, through its customs administration, conduct a verification of a regional value-content requirement in accordance with the Generally Accepted Accounting Principles applied in the territory of the Party from which the good was exported.</p> <p>9. The Party conducting a verification shall provide the exporter or producer whose good is the subject of the verification with a written determination of whether the good qualifies as an originating good, including findings of fact and the legal basis for the determination.</p> <p>10. Where verifications by a Party indicate a pattern of conduct by an exporter or a producer of false or</p>

Provision	USMCA	NAFTA
	<p>exceeding 30 days from the proposed date of the visit.</p> <p>11. Each Party shall provide that, when its customs administration receives notification pursuant to paragraph 9, the customs administration may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the proposed date of the visit, or for a longer period as the relevant Parties may decide.</p> <p>12. A Party shall not deny preferential tariff treatment to a good based solely on the postponement of a verification visit pursuant to paragraphs 10 or 11.</p> <p>13. Each Party shall permit an exporter or a producer whose good is subject to a verification visit by another Party to designate two observers to be present during the visit, provided that:</p> <ul style="list-style-type: none"> a) the observers do not participate in a manner other than as observers; b) the failure of the exporter or producer to designate observers does not result in the postponement of the visit; and c) an exporter or producer of a good identifies to the customs administration conducting a verification visit any observers designated to be present during the visit. <p>14. The importing Party shall provide the importer, exporter, or producer that certified that the good was originating and is the subject of a verification, with a written determination of origin that includes the findings of facts and the legal basis for the determination. If the importer is not the certifier, the importing Party shall also provide that written determination to the importer. 15. The Party conducting a verification shall, as expeditiously as possible and within 120 days after it has received all the information necessary² to make the determination, provide the written determination under paragraph 14. Notwithstanding the foregoing, the Party may extend this period, in exceptional cases, for up to 90 days after notifying the importer, and any exporter or producer who is subject to the verification or provided information during the verification.</p>	<p>unsupported representations that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods exported or produced by such person until that person establishes compliance with Chapter Four (Rules of Origin).</p>

Provision	USMCA	NAFTA
	<p>15. Prior to issuing a written determination under paragraph 14, if the importing Party intends to deny preferential tariff treatment, the importing Party shall inform the importer, and any exporter or producer who is subject to the verification and provided information during the verification, of the preliminary results of the verification and provide those persons with a notice of intent to deny that includes when the denial would be effective and a period of at least 30 days for the submission of additional information, including documents, related to the originating status of the good.</p> <p>16. If verifications by a Party indicate a pattern of conduct by an importer, exporter, or a producer of false or unsupported representations that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods imported, exported, or produced by such person until that person establishes compliance with this Chapter, Chapter 4 (Rules of Origin), and Chapter 6 (Textile and Apparel Goods).</p> <p>17. For the purposes of this Article and relevant articles of the Uniform Regulations, all communication to the exporter or producer and to the customs administration of the Party of export will be sent by any means that can produce any confirmation of receipt. The specified time periods will begin from the date of receipt.</p>	



Overview

This provision is new to the United States-Mexico-Canada Agreement (USMCA) and provides the reasons for denying a claim for preferential tariff treatment. A comparable provision is not specified in the former North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 5, Articles 5.10
 - *Textiles Final Text*: Chapter 6, Article 6.7
 - *HR 5430 Citation*: Title II, Section 207(b)(B)
- **NAFTA**
 - Not specified.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Determinations of Origin	<p>New to USMCA</p> <ul style="list-style-type: none"> • Everyone shall be granted preferential tariff treatment on or after the date of entry into force of this agreement; (a) through (f) are the reasons for preferential tariff treatment denial. • For Textile or Apparel Goods, in addition to (a) through (f), preferential tariff treatment may be denied for reasons set for in Chapter 6, Article 6.7(b) and (c). 	<ul style="list-style-type: none"> • Not specified.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Determinations of Origin	<ul style="list-style-type: none"> • Except as otherwise provided in paragraph 2 or Article 6.7 (Determinations), each Party shall grant a claim for preferential tariff treatment made under this Chapter on or after the date of entry into force of this Agreement. <ul style="list-style-type: none"> a) The importing Party may deny a claim for preferential tariff treatment if: <ul style="list-style-type: none"> b) it determines that the good does not qualify for preferential treatment; c) pursuant to a verification under Article 5.9 (Origin Verification), it has not received sufficient information to determine that the good qualifies as originating; d) the exporter, producer, or importer fails to respond to a written request or questionnaire for information, 	<ul style="list-style-type: none"> • Not specified.



Provision	USMCA	NAFTA
	<p>including documents, under Article 5.9 (Origin Verification);</p> <p>e) the exporter or producer fails to provide its written consent for a verification visit, in accordance with Article 5.9 (Origin Verification);</p> <p>f) the importer, exporter, or producer fails to comply with the requirements of this Chapter; or</p> <p>g) the exporter, producer, or importer of the good that is required to maintain records or documentation in accordance with this Chapter:</p> <ul style="list-style-type: none">i. fails to maintain records or documentation, orii. denies access, if requested by a Party, to those records or documentation.	



Overview

This is a new provision in the new United States-Mexico-Canada Agreement (USMCA) that requires each Party to maintain a risk management system to focus inspection on high-risk goods. There was no such provision in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 7, Article 7.12
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Risk Management System	New provision in USMCA. <ul style="list-style-type: none"> • Each USMCA Party must maintain a risk management system that enables it to focus inspection activities and high-risk goods. 	No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Risk Management System	<ul style="list-style-type: none"> • Each Party shall maintain a risk management system for assessment and targeting that enables its customs administration, and other agencies involved in the process for cross border trade, to focus inspection activities on high-risk goods and that simplifies the release and movement of low-risk goods. • Each Party shall base risk management on assessment of risk through appropriate selectivity criteria. • Each Party shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions on international trade. • In order to facilitate trade, each Party shall periodically review and update, as appropriate, its risk management system. 	<ul style="list-style-type: none"> • Not specified.



Overview

This provision provides guidance for notification of treatment to the Parties. The new United States-Mexico-Canada Agreement (USMCA) no longer requires a good to be marked as a good of CA or MX to receive preferential tariff treatment, as was the case under the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 5, Article 5.17
 - *HR 5430 Citation*: Title II, Section 207
- **NAFTA**
 - *Final Text*: Chapter 5, Article 512

Significant Changes in USMCA

Provision	USMCA	NAFTA
Notification of Treatment	Change from NAFTA <ul style="list-style-type: none"> • USMCA no longer requires a Party to notify other Parties of a measure that is likely to affect future determinations of origin, as USMCA no longer requires a good to be marked as a good of CA or MX to receive preferential tariff treatment. 	<ul style="list-style-type: none"> • Requires notification to other Parties of treatment.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Notification of Treatment	<ul style="list-style-type: none"> • Each Party shall notify the other Parties of the following determinations, measures, and rulings, including to the extent practicable those that are prospective in application: <ul style="list-style-type: none"> a) a determination of origin issued as the result of a verification conducted pursuant to Article 5.9 (Origin Verification); b) a determination of origin that the Party is aware is contrary to: <ul style="list-style-type: none"> i. a ruling issued by the customs administration of another Party, or ii. consistent treatment given by the customs administration of another Party with respect to the tariff classification or value of a good, or of materials used in the production 	<ul style="list-style-type: none"> • Each Party shall notify the other Parties of the following determinations, measures and rulings, including to the greatest extent practicable those that are prospective in application: <ul style="list-style-type: none"> a) a determination of origin issued as the result of a verification conducted pursuant to Article 506(1); b) a determination of origin that the Party is aware is contrary to <ul style="list-style-type: none"> i. a ruling issued by the customs administration of another Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good,



Provision	USMCA	NAFTA
	<p>of a good, or the reasonable allocation of costs when calculating the net cost of a good, that has been the subject of a determination of origin;</p> <p>c) a measure establishing or significantly modifying an administrative policy that is likely to affect a future determination of origin; and</p> <p>d) an advance ruling, or a ruling modifying or revoking an advance ruling, on origin under this Agreement, pursuant to Article 5.14 (Advance Rulings Relating to Origin), and Article 7.5 (Advance Rulings).</p>	<p>that is the subject of a determination of origin, or</p> <p>ii. consistent treatment given by the customs administration of another Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good, that is the subject of a determination of origin;</p> <p>c) a measure establishing or significantly modifying an administrative policy that is likely to affect future determinations of origin, country of origin marking requirements or determinations as to whether a good qualifies as a good of a Party under the Marking Rules; and</p> <p>d) an advance ruling, or a ruling modifying or revoking an advance ruling, pursuant to Article 509.</p>



Overview

This is a new provision in the new United States-Mexico-Canada Agreement (USMCA) that states that a Party may request another Party to conduct a verification to determine whether any customs office is occurring and mandates the Party to respond in writing. There was no such provision in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 7, Article 7.27
 - *HR 5430 Citation*: Title II, Section 202
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Customs Compliance Verification Requests	New provision in USMCA. <ul style="list-style-type: none"> • A Party may request another Party to conduct a customs compliance verification. 	No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Customs Compliance Verification Requests	<ol style="list-style-type: none"> 1. A Party may request another Party to conduct a verification in that Party’s territory to assist the requesting Party to determine whether a customs offence is occurring or has occurred by obtaining information, including documents, from an exporter or producer. <ul style="list-style-type: none"> ○ The requesting Party shall make the request in writing. ○ The requested Party shall respond to the request promptly and in no case later than 30 days after the date it receives the request. ○ The response will include whether it will conduct the verification. ○ If the Party does not intend to conduct the verification, the response will indicate the basis for refusal. ○ If a Party will conduct the verification, the response will indicate the intended timing and other relevant details. 	<ul style="list-style-type: none"> • Not specified.

Provision	USMCA	NAFTA
	<p>2. If the requested Party conducts a verification under paragraph 1, it shall provide the requesting Party promptly upon completing the verification a report containing the relevant information including data and documents, obtained during its verification.</p> <p>3. In the case of a site visit by the requested Party, the requesting Party may, through officials it designates and subject to the consent of a legally responsible person for the location visited, accompany the requested Party.</p> <ul style="list-style-type: none"> ○ Accompanying the requested Party does not create any legal authority for the designated officials of the requesting Party. ○ The designated officials of the requesting Party shall fulfill the conditions and procedures mutually agreed between the relevant Parties for the visit. ○ Nothing in this Agreement requires the requested Party to allow or facilitate the participation of the designated officials of the requesting Party. 	



Overview

This provision provides for the allowance of each Party to level criminal, civil, or administrative penalties for violations of its laws and regulations pertaining to the new United States-Mexico-Canada Agreement (USMCA). This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 5 and 7, Article 5.13 and 7.18
 - *HR 5430 Citation*: Title II, Section 202A
- **NAFTA**
 - *Final Text*: Chapter 5, Article 508

Significant Changes in USMCA

Provision	USMCA	NAFTA
Penalties	<p>New in USMCA</p> <ul style="list-style-type: none"> • Chapter 5 allows the Parties to impose the penalties. • Chapter 7 requires the Parties to impose penalties for a breach of customs laws, regulations or procedural requirements but ensures that clerical or minor errors are not treated as such a breach. • Chapter 7 also requires: the parties to adopt or maintain measures to avoid conflicts of interest in the assessment and collection of penalties and duties. • When a party imposes a penalty for a breach of its customs laws, regulations, or procedural requirements, it provides an explanation in writing to the person on whom the penalty is imposed, specifying the nature of the breach. • Each party must provide a person the opportunity to correct an error in a customs transaction that is a potential breach of a customs law, regulation, or procedural requirement, excluding fraud, prior to the discovery of the error by the Party. 	No provision.

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USMCA

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Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Penalties 5.13	<ul style="list-style-type: none"> Each Party shall maintain criminal, civil, or administrative penalties for violations of its laws and regulations related to this Chapter. 	<ul style="list-style-type: none"> Each Party shall maintain measures imposing criminal, civil or administrative penalties for violations of its laws and regulations relating to this Chapter. Nothing in Articles 502(2), 504(3) or 506(6) shall be construed to prevent a Party from applying such measures as the circumstances may warrant.
Penalties 7.18	<ul style="list-style-type: none"> Each Party shall adopt or maintain measures that allow for the imposition of a penalty by a Party's customs administration for breach of its customs laws, regulations, or procedural requirements, including those governing tariff classification, customs valuation, transit procedures, country of origin, or claims for preferential treatment. Each Party shall ensure that such measures are administered in a uniform manner throughout its territory. Each Party shall ensure that a penalty imposed by its customs administration for a breach of its customs laws, regulations, or procedural requirements is imposed only on the person legally responsible for the breach. Each Party shall ensure that any penalty imposed by its customs administration for breach of its customs laws, regulations, or procedural requirements depends on the facts and circumstances of the case, including any previous breaches by the person receiving the penalty, and be commensurate with the degree and severity of the breach. Each Party shall provide that a clerical or minor error in a customs transaction, as set forth in its laws, regulations or procedures, published in accordance with Article 7.2 (Online Publication), shall not be treated as a breach of customs laws, regulations, or procedural requirements, and may be corrected without assessment of a penalty, unless the error is part of a consistent pattern of such errors by that person. 	<ul style="list-style-type: none"> Not specified.

Provision	USMCA	NAFTA
	<ul style="list-style-type: none"> • Each Party shall adopt or maintain measures to avoid conflicts of interest in the assessment and collection of penalties and duties. No portion of the remuneration of a government official shall be calculated as a fixed portion or percentage of any penalties or duties assessed or collected. • Each Party shall ensure that when its customs administration imposes a penalty for a breach of its customs laws, regulations, or procedural requirements, it provides an explanation in writing to the person on whom the penalty is imposed, specifying the nature of the breach, including the specific law, regulation, or procedural requirement concerned, and the basis for determining the penalty amount if not set forth specifically in the law, regulation, or procedural requirement. • Each Party shall provide that a person may correct an error in a customs transaction that is a potential breach of a customs law, regulation, or procedural requirement, excluding fraud, prior to the discovery of the error by the Party, if the person does so in accordance with the Party's laws, regulations, or procedures, and pays any owed customs duties, taxes, fees, and charges, including interest. The correction shall include the identification of the transaction and circumstances of the error. The Party shall not use this error to assess a penalty for a breach of a customs law, regulation, or procedural requirement. • Each Party shall specify a fixed, finite period within which it may initiate penalty proceedings in connection with a breach of a customs law, regulation, or procedural requirement. 	



Overview

The Review and Appeal provision of the new United States-Mexico-Canada Agreement (USMCA) provides for the review and the appeal by Parties of determinations of origin and advance rulings. The Review and Appeal of Customs Determinations provision provides effective, impartial, and accessible procedures for review and appeal of administrative determinations on Customs matters. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 5, Article 5.15; Chapter 7, Article 7.15
 - *HR 5430 Citation*: Title II, Section 202
- **NAFTA**
 - *Final Text*: Chapter 5, Section D, Article 510; Chapter 18, Article 1805

Significant Changes in USMCA

Provision	USMCA	NAFTA
Review and Appeal	<p>Updated language in USMCA from NAFTA</p> <ul style="list-style-type: none"> • Each Party must ensure that any person to whom a customs administration issues a determination has access to an appeal or a review of the determination by a higher administrative authority higher than or independent office and a quasi-judicial or judicial review or appeal of the determination or decision made at the final administrative review. • Each Party shall provide the reasons for the administrative determination and access to information on how to request reviews and appeals. • Each Party shall ensure that a determination or decision is applicable in the same manner throughout the Party's territory of the with respect to that person. 	<ul style="list-style-type: none"> • NAFTA provides that each Party must ensure that any person to whom a customs administration issues a determination has access to an appeal or a review of the determination by a higher administrative authority higher than or independent office and a quasi-judicial or judicial review or appeal of the determination or decision made at the final administrative review.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Review and Appeal	<ul style="list-style-type: none"> • Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings by its customs administration related to origin under this Agreement as it provides to importers in its territory, to an exporter or producer: <ul style="list-style-type: none"> a) that completes a certification of origin for a good that has been the subject of a determination of origin under this Agreement; or b) that has received an advance ruling on origin under this Agreement pursuant to Article 5.14 (Advance Rulings Relating to Origin), and Article 7.5 (Advance Rulings). <p><i>(Reference: Article 5.15)</i></p>	<ol style="list-style-type: none"> 1. Each Party shall grant substantially the same rights of review and appeal of marking determinations of origin, country of origin determinations and advance rulings by its customs administration as it provides to importers in its territory to any person: <ul style="list-style-type: none"> a) who completes and signs a Certificate of Origin for a good that has been the subject of a determination of origin; b) whose good has been the subject of a country of origin marking determination pursuant to Article 311 (Country of Origin Marking); or c) who has received an advance ruling pursuant to Article 509(1). 2. Further to Articles 1804 (Administrative Proceedings) and 1805 (Review and Appeal), each Party shall provide that the rights of review and appeal referred to in paragraph 1 shall include access to: <ul style="list-style-type: none"> a) at least one level of administrative review independent of the official or office responsible for the determination under review; and b) in accordance with its domestic law, judicial or quasijudicial review of the determination or decision taken at the final level of administrative review. <p><i>(Reference: Article 510)</i></p>
Provision of Information	<ol style="list-style-type: none"> 1. With a view to providing effective, impartial, and easily accessible procedures for review and appeal of administrative determinations on customs matters, each Party shall ensure that any person to whom a customs administration issues a determination has access to: <ul style="list-style-type: none"> a) an administrative appeal or a review of the determination by an administrative authority higher than or independent of the employee or office that issued the determination; and b) a quasi-judicial or judicial review or appeal of the determination or 	<ol style="list-style-type: none"> 1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter. 2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:

Provision	USMCA	NAFTA
	<p>decision made at the final level of an administrative review.</p> <p>2. Each Party shall provide a person to whom it issues an administrative determination with the reasons for the administrative determination and access to information on how to request reviews and appeals.</p> <p>3. Each Party shall ensure that an authority conducting a review or appeal under paragraph 1 notifies the person in writing of its determination or decision in the review or appeal, and the reasons for the determination or decision.</p> <p>4. Each Party shall ensure that if a person receives a determination or decision on an administrative, quasi-judicial, or judicial review or appeal as provided under paragraph 1, that determination or decision shall be applicable in the same manner throughout the territory of the Party with respect to that person.</p> <p>5. With a view to ensuring predictability for traders and consistent application of its customs laws, regulations, and procedural requirements, each Party is encouraged to apply determinations or decisions of administrative, quasi-judicial, and judicial authorities under paragraph 1 to the practices of its customs administration throughout its territory.</p> <p>6. Each Party shall endeavor to allow a trader to file a request for administrative review or appeal to be conducted by the customs administration through electronic means.</p> <p><i>(Reference: Article 7.15)</i></p>	<p>a) a reasonable opportunity to support or defend their respective positions; and</p> <p>b) a decision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority.</p> <p>3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.</p> <p><i>(Reference: Article 1805)</i></p>



Overview

This is a new provision in the new United States-Mexico-Canada Agreement (USMCA) that requires the Parties of the Agreement to cooperate to strengthen and expand their customs and trade enforcement. There was no such provision in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 7, Article 7.25
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Cooperation on Enforcement	<p>New provision in USMCA.</p> <ul style="list-style-type: none"> • Only a domestic importer, or an exporter or producer in one of the other two countries, can request advice or information. • Must respond timely if it meets the requirements of the drawback or duty deferral program. 	No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Cooperation on Enforcement	<ol style="list-style-type: none"> 1. The Parties agree to strengthen and expand their customs and trade enforcement efforts and cooperation as set out in this Section. In these efforts, the Parties may use any applicable mechanism, including bilateral cooperation mechanisms. 2. Each Party shall, in accordance with its laws and regulations, cooperate with other Parties for the purposes of enforcing or assisting in the enforcement of their respective measures concerning customs offenses in the trade in goods between the Parties, including ensuring the accuracy of claims for preferential tariff treatment under this Agreement. 	<ul style="list-style-type: none"> • Not specified.

Provision	USMCA	NAFTA
	<p>3. With a view to facilitating the effective operation of this Agreement, each Party shall:</p> <ul style="list-style-type: none"> a) encourage cooperation with the other Parties regarding customs issues that affect goods traded between the Parties; and b) endeavor to provide the other Parties with advance notice of any significant administrative change, modification of a law or regulation, or other measure related to its laws or regulations that governs importations, exportations, or transit procedures that is likely to substantially affect the operation of this Agreement or likely to affect the effective implementation and enforcement of the customs and trade laws and regulations of a Party. <p>4. Each Party shall take appropriate measures, such as legislative, administrative, or judicial actions for enforcement of its laws, regulations, and procedures related to customs offenses, to enhance coordination between its customs administration and other relevant agencies and for cooperation with another Party.</p> <p>5. The measures under paragraph 4 may include:</p> <ul style="list-style-type: none"> a) specific measures, such as enforcement actions to detect, prevent, or address customs offenses, especially on identified customs priorities, taking into account trade data, including patterns of imports, exports, or transit goods to identify potential or real sources of these offenses; b) adopting or maintaining penalties aimed at deterring or penalizing customs offenses; and c) providing a Party's government officials with the legal authority to meet its enforcement obligations under this Agreement. 	



Overview

The Customs Broker provision of the new United States-Mexico-Canada Agreement (USMCA) permits importers to file customs documentation without using a licensed customs broker, including through electronic customs platforms, and prohibits Parties from limiting the number of ports at which brokers can operate. This fact sheet highlights changes from the North American Free Trade Agreement (NAFTA).

USMCA's Authorized Economic Operator provision requires each Party to maintain a trade facilitation partnership programs for operators who meet specific security criteria. This cooperation currently exists among Canada's Partners in Protection (PIP), United States' Customs Trade Partnership against Terrorism (CTPAT) programs, and Mexico's Operadores Económicos Autorizados (OEA).

USMCA also includes provisions on efficient border inspection procedures, regional and bilateral cooperation on enforcement, and post clearance audit procedures.

References

- **USMCA**
 - *Final Text*: Chapter 7, Articles 7.13, 7.14, 7.20, 7.21, and 7.25
- **NAFTA**
 - *Final Text*: Chapter 5, Article 512

Significant Changes in USMCA

Provision	USMCA	NAFTA
Authorized Economic Operators	<ul style="list-style-type: none"> • This provision calls for harmonization of Authorized Economic Operator programs, giving pre-authorized businesses preferred customs treatment, including reduced frequency of examination. 	<ul style="list-style-type: none"> • No provision.
Post Clearance Audit	<ul style="list-style-type: none"> • This provision requires the party to adopt post clearance audit to ensure compliance with its customs laws and to expedite the release of goods. 	<ul style="list-style-type: none"> • No provision.
Customs Brokers	<ul style="list-style-type: none"> • This provision allows for the self-filing of a customs declaration and other import or transit documentation without the services of a customs broker. • Each Party shall ensure that access to the electronic systems is available for self-filers. • This provision prohibits limits to the number of ports or locations at which a customs broker may operate. Each Parties' qualifications and requirements for customs brokers must be transparent and objective. 	<ul style="list-style-type: none"> • No provision.

Provision	USMCA	NAFTA
Border Inspections	<ul style="list-style-type: none"> Parties shall coordinate to carry out examinations expeditiously. Furthermore, as appropriate, the Parties shall coordinate to develop procedures or facilities, at adjacent ports of entry, for the efficient movement of goods. 	<ul style="list-style-type: none"> No provision.
Regional and Bilateral Cooperation on Enforcement	<ul style="list-style-type: none"> Parties are required to take appropriate legislative, administrative, or judicial actions to enhance coordination in addressing customs offenses, and to, whenever appropriate, provide information to assist another Party in addressing such offenses. 	<ul style="list-style-type: none"> The Parties shall cooperate in the enforcement of their respective customs-related laws or regulations implementing this Agreement and exchange information when practicable.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Authorized Economic Operator	<ol style="list-style-type: none"> Each Party shall maintain a trade facilitation partnership program for operators who meet specified security criteria, hereinafter, referred to as Authorized Economic Operator (AEO) programs, in accordance with the Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organization. The Parties shall endeavor to cooperate by: <ol style="list-style-type: none"> exchanging experiences on the operation of and improvements to their respective AEO programs, seeking to adopt, if appropriate, best practices; exchanging information with each other on the operators authorized by each program, in accordance with each Party's law and established processes; and collaborating in the identification and implementation of trade facilitation benefits for operators authorized by the other Parties. 	<ul style="list-style-type: none"> No provision.
Customs Brokers	<ol style="list-style-type: none"> Each Party shall allow an importer and any other person it deems appropriate, in accordance with its laws and regulations, to self-file a customs declaration and other import or transit documentation without the services of a customs broker. For the purposes of electronic filing, self-filing shall include direct access or access through a service provider, to electronic systems for filing and transmitting customs declarations and other import or transit documentation. 	<ul style="list-style-type: none"> No provision.

Provision	USMCA	NAFTA
	<p>Each Party shall ensure that access to the electronic systems is available for self-filers on a nondiscriminatory basis relative to other categories of users.</p> <p>2. If a Party establishes requirements for qualifications, licensing, or registration to be a customs broker or to provide customs broker services, the Party shall ensure that the requirements are transparent, based on objective criteria related to providing customs broker services, promote integrity and professionalism among customs brokers, and are administered uniformly in its territory.</p> <p>3. No Party shall impose arbitrary limits to the number of ports or locations at which a customs broker may operate. A Party shall allow a licensed customs broker to electronically submit a customs declaration and import documentation to the electronic systems referred to in paragraph 1, at any port at which it is licensed to operate in accordance with the preceding sentence.</p>	
Border Inspections	<p>1. The Parties shall cooperate with each other, as appropriate, with a view to facilitating trade through the promotion of efficient and effective processing of imports and exports through their ports of entry.</p> <p>2. Each Party shall ensure that its customs administration and other relevant agencies that examine goods, conveyances, or instruments of international traffic, carry out examinations with appropriate coordination and, to the extent practicable, simultaneously within a single location, with a view to releasing goods and allowing conveyances and instruments of international traffic to enter its territory in a timely manner and immediately after the examinations have been completed, provided that all regulatory requirements have been met.</p> <p>3. Pursuant to paragraphs 1 and 2, each Party is encouraged to develop and implement standard operating procedures amongst its customs administration and relevant agencies that examine goods, conveyances, or instruments of international traffic. If practicable, each Party is encouraged to adapt</p>	<ul style="list-style-type: none"> • No provision.

Provision	USMCA	NAFTA
	<p>their border facilities to carry out the examinations specified in paragraph 2.</p> <p>4. As appropriate, the Parties shall coordinate to develop procedures or facilities adjacent to ports of entry for the efficient movement of goods the processing of which requires specific accommodations with respect to facilities or examination.</p> <p>5. Nothing in this Article requires a Party to provide services for the examination and release of goods for all types of goods at all ports of entry within its territory.</p>	
<p>Regional and Bilateral Cooperation on Enforcement</p>	<p>1. The Parties agree to strengthen and expand their customs and trade enforcement efforts and cooperation as set out in this Section. In these efforts, the Parties may use any applicable mechanism, including bilateral cooperation mechanisms.</p> <p>2. Each Party shall, in accordance with its laws and regulations, cooperate with other Parties for the purposes of enforcing or assisting in the enforcement of their respective measures concerning customs offenses in the trade in goods between the Parties, including ensuring the accuracy of claims for preferential tariff treatment under this Agreement.</p> <p>3. With a view to facilitating the effective operation of this Agreement, each Party shall:</p> <ul style="list-style-type: none"> a) encourage cooperation with the other Parties regarding customs issues that affect goods traded between the Parties; and b) endeavor to provide the other Parties with advance notice of any significant administrative change, modification of a law or regulation, or other measure related to its laws or regulations that governs importations, exportations, or transit procedures that is likely to substantially affect the operation of this Agreement or likely to affect the effective implementation and enforcement of the customs and trade laws and regulations of a Party. <p>4. Each Party shall take appropriate measures, such as legislative, administrative, or judicial actions for enforcement of its laws, regulations, and procedures related to</p>	<p>1. Each Party shall notify the other Parties of the following determinations, measures and rulings, including to the greatest extent practicable those that are prospective in application:</p> <ul style="list-style-type: none"> a) a determination of origin issued as the result of a verification conducted pursuant to Article 506(1); b) a determination of origin that the Party is aware is contrary to <ul style="list-style-type: none"> i. a ruling issued by the customs administration of another Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good, that is the subject of a determination of origin, or ii. consistent treatment given by the customs administration of another Party with respect to the tariff classification or value of a good, or of materials used in the production of a good, or the reasonable allocation of costs where calculating the net cost of a good, that is the subject of a determination of origin; c) a measure establishing or significantly modifying an administrative policy that is

Provision	USMCA	NAFTA
	<p>customs offenses, to enhance coordination between its customs administration and other relevant agencies and for cooperation with another Party.</p> <p>5. The measures under paragraph 4 may include:</p> <ul style="list-style-type: none"> a) specific measures, such as enforcement actions to detect, prevent, or address customs offenses, especially on identified customs priorities, taking into account trade data, including patterns of imports, exports, or transit goods to identify potential or real sources of these offenses; b) adopting or maintaining penalties aimed at deterring or penalizing customs offenses; and c) providing a Party's government officials with the legal authority to meet its enforcement obligations under this Agreement. <p>6. The Parties shall, subject to their respective laws, regulations and procedures, cooperate by sharing information, including exchanging historical data and if practicable and appropriate, data in real time with respect to imports, exports, and transit of goods to identify potential or real sources of customs offenses, especially on priority initiatives or industry sectors. Each Party shall identify and maintain the capability for the secure exchange of customs data with another Party.</p> <p>7. Each Party shall, whenever practicable, and subject to its laws and regulations, provide another Party with information that has come to its attention that it believes would assist the receiving Party in detecting, preventing, or addressing potential or real customs offenses in particular those related to unlawful activities, including duty evasion, smuggling, and similar infractions. Such information may include specific data on any person suspected to be involved in unlawful activity, the mode of transportation, other relevant information, and the results of enforcement actions, application of penalties, or unusual trade patterns, both collected directly by the providing Party and received from other sources.</p>	<p>likely to affect future determinations of origin, country of origin marking requirements or determinations as to whether a good qualifies as a good of a Party under the Marking Rules; and</p> <ul style="list-style-type: none"> d) an advance ruling, or a ruling modifying or revoking an advance ruling, pursuant to Article 509. <p>2. The Parties shall cooperate:</p> <ul style="list-style-type: none"> a) in the enforcement of their respective customs-related laws or regulations implementing this Agreement, and under any customs mutual assistance agreements or other customs related agreement to which they are party; b) for purposes of the detection and prevention of unlawful transshipments of textile and apparel goods of a non-Party, in the enforcement of prohibitions or quantitative restrictions, including the verification by a Party, in accordance with the procedures set out in this Chapter, of the capacity for production of goods by an exporter or a producer in the territory of another Party, provided that the customs administration of the Party proposing to conduct the verification, prior to conducting the verification, <ul style="list-style-type: none"> i. obtains the consent of the Party in whose territory the verification is to occur, and ii. provides notification to the exporter or producer whose premises are to be visited, except that procedures for notifying the exporter or producer whose premises are to be visited shall be in accordance with such other

Provision	USMCA	NAFTA
	<p>8. The Parties shall endeavor to cooperate, subject to their laws, regulations, and procedures, bilaterally or trilaterally, as appropriate, by developing customs enforcement initiatives, which may include the creation of task forces, joint or coordinated data analysis, and identification of special monitoring measures and other actions, to prevent, deter, and address customs offenses, particularly with respect to priorities of mutual concern.</p>	<p>procedures as the Parties may agree;</p> <p>c) to the extent practicable and for purposes of facilitating the flow of trade between them, in such customs-related matters as the collection and exchange of statistics regarding the importation and exportation of goods, the harmonization of documentation used in trade, the standardization of data elements, the acceptance of an international data syntax and the exchange of information; and</p> <p>d) to the extent practicable, in the storage and transmission of customs-related documentation.</p> <p><i>(Reference: Chapter 5, Article 512)</i></p>
<p>Post Clearance Audit</p>	<ul style="list-style-type: none"> • With a view to expediting the release of goods, each Party shall adopt or maintain post clearance audit to ensure compliance with its customs and related laws and regulations. • Each Party shall conduct post-clearance audits in a risk-based manner. • Each Party shall conduct post-clearance audits in a transparent manner. If an audit is conducted and conclusive results have been achieved, the Party shall, without delay, notify the person whose records are audited of the audit results, the basis of the results, and the audited person's rights and obligations. • The Parties acknowledge that the information obtained in a post-clearance audit may be used in further administrative, quasi-judicial, or judicial proceedings. • Each Party shall, whenever practicable, use the result of post-clearance audit in applying risk management. • Each Party shall conduct a post-clearance audit in a manner that informs the trader with respect to laws, regulations, and procedures and promotes future compliance. 	<ul style="list-style-type: none"> • No provision.

Provision	USMCA	NAFTA
	<ul style="list-style-type: none">• Each Party shall provide in its laws or regulations a fixed and finite period with respect to record-keeping obligations. <p><i>(Reference: Chapter 7, Article 7.13)</i></p>	



Overview

This provision overviews record-keeping requirements for the importer, producer, and exporter associated with a shipment seeking preferential tariff treatment under USMCA. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA). General record-keeping requirements are in 19 CFR 163.2.

References

- **USMCA**
 - *Final Text:* Chapter 5, Article 5.8
 - *HR 5430 Citation:* Title II, Section 206
- **NAFTA**
 - *Final Text:* Chapter 5, Section B, Article 505
- **CFR:** 19 CFR 181.22

Significant Changes in USMCA

Provision	USMCA	NAFTA
Effective Period	<ul style="list-style-type: none"> • No change – Five years from date of importation for importer and five years after date on which certification of origin was completed, or longer as Party may specify. 	
Responsible Party(ies)	<ul style="list-style-type: none"> • No change – Importer claiming preferential tariff treatment and exporter/producer in its territory. 	
Requirements	<ul style="list-style-type: none"> • Certification of origin <i>or</i> written representation from producer. 	<ul style="list-style-type: none"> • Certificate of Origin (Form 434).
Medium	<ul style="list-style-type: none"> • Any, including electronic. 	<ul style="list-style-type: none"> • Not specified.
Exceptions	<ul style="list-style-type: none"> • Requirements apply even if importing Party does not require certification of origin or if a requirement for a certification of origin has been waived. 	<ul style="list-style-type: none"> • Not specified.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Effective Period	<ul style="list-style-type: none"> Five years from the date of importation of the good. Five years after the date on which the certification of origin was completed, or for such longer period as the Party may specify. 	<ul style="list-style-type: none"> Five years after the date on which the Certificate was signed or for such longer period as the Party may specify. Five years after date of importation of the good or for such longer period as the Party may specify.
Responsible Party(ies)	<ul style="list-style-type: none"> Importer claiming preferential tariff treatment Exporter or producer in its territory. 	<ul style="list-style-type: none"> Importer claiming preferential tariff treatment Exporter or producer in its territory.
Requirements	<p>Importer</p> <ul style="list-style-type: none"> Documentation related to importation, including certification of origin. All records to demonstrate good is originating. Documents necessary to demonstrate compliance with Article 5.4.1(e). <p>Exporter or Producer</p> <ul style="list-style-type: none"> Certification of origin or written representation. All records necessary to demonstrate that a good is originating, including: <ul style="list-style-type: none"> Purchase of, cost of, value of, shipping of, and payment for, the good or material; Purchase, cost of, value of, shipping of, and payment for all materials, including indirect materials, used in the production of the good or material; and The production of the good in the form in which the good is exported or the production of the materials in the form in which it was sold. 	<p>Importer</p> <ul style="list-style-type: none"> Document, such as copy of the Certificate, as the Party may require relating to the importation of the good. <p>Exporter or Producer</p> <ul style="list-style-type: none"> Certificate of Origin. All records relating to the origin of a good for which preferential tariff treatment was claimed, including: <ul style="list-style-type: none"> Purchase of, cost of, value of, and payment for, the good that is exported from its territory; Purchase of, cost of, value of, and payment of all materials, including indirect materials, used in production of good that is exported from its territory; and Production of good in the form in which the good is exported from its territory.
Medium	<ul style="list-style-type: none"> Importer, exporter, or producer in its territory may choose to maintain the records or documentation in any medium, including electronic, provided that the records or documentation can be promptly retrieved and printed. 	<ul style="list-style-type: none"> Not specified.
Exceptions	<ul style="list-style-type: none"> Record-keeping requirements apply even if importing Party does not require a certification of origin or if a requirement for a certification of origin has been waived. 	<ul style="list-style-type: none"> Not specified.



Overview

This provision covers implementing and modifying the Uniform Regulations. The new United States-Mexico-Canada Agreement (USMCA) has made some changes from the North American Free Trade Agreement (NAFTA). USMCA intends to help small and medium-sized enterprises utilize the Agreement.

References

- **USMCA**
 - *Final Text*: Chapter 5, Article 5.16
 - *HR 5430 Citation*: Title I, Section 103(b)(2)
- **NAFTA**
 - *Final Text*: Chapter 5, Article 511

Significant Changes in USMCA

Provision	USMCA	NAFTA
Changes / Differences	<ul style="list-style-type: none"> • New to USMCA <ul style="list-style-type: none"> ○ The USMCA specifies a specific Committee to handle the modification of the Uniform Rules. ○ The Origin Committee provides guidance to help small and medium-sized enterprises (SMEs) to comply with the rules and procedures. • Same as NAFTA <ul style="list-style-type: none"> ○ The laws and regulations to implement the Uniform Regulations must be in force by the entry into force date of the Agreement 	
Modifications	<ul style="list-style-type: none"> • There is no specific time limit to implement modifications to the Uniform Regulations • The USMCA specifies the Committee on Rules of Origin and Origin Procedures (Origin Committee) to handle modifications of the Uniform Rules. • The Origin Committee also provides guidance including examples to assist small and medium-sized enterprises (SMEs) to comply with the rules and procedures of Chapter 4, Chapter 5, and Chapter 6. 	<ul style="list-style-type: none"> • NAFTA specifies 180-day time limit to implement the modification of the Uniform Regulations

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Uniform Regulations	<p>Article 5.16: Uniform Regulations</p> <ol style="list-style-type: none"> 1. The Parties shall, by entry into force of this Agreement, adopt or maintain through their respective laws or regulations, Uniform Regulations regarding the interpretation, application, and administration of this Chapter, Chapter 4 (Rules of Origin), Chapter 6 (Textile and Apparel Goods), Chapter 7 (Customs Administration and Trade Facilitation) and other matters as may be decided by the Parties. 2. The Committee on Rules of Origin and Origin Procedures (Origin Committee) shall consult to discuss possible amendments or modifications to the Uniform Regulations. 3. In particular, the Origin Committee shall consult regularly to consider modifications or additions to the Uniform Regulations to reduce their complexity and provide practical and useful guidance to ensure better compliance with the rules and procedures of this Chapter, Chapter 4 (Rules of Origin), and Chapter 6 (Textile and Apparel Goods), including examples or guidance that would be of particular assistance to SMEs in the territories of the Parties. 4. The Origin Committee shall notify the Commission of any modification of or addition to the Uniform Regulations it decides. 5. Each Party shall implement any modification of or addition to the Uniform Regulations within a period that the Parties decide. 6. Each Party shall apply the Uniform Regulations in addition to the obligations in the Chapter. <p>HR 5430 Citation: Title I, Section 103(b)(2)</p> <ul style="list-style-type: none"> • Interim or initial regulations to implement the Uniform Regulations regarding rules of origin provided for under article 5.16 of the USMCA shall be prescribed not later than the date on which the USMCA enters into force. 	<p>Article 511: Uniform Regulations</p> <ol style="list-style-type: none"> 1. The Parties shall establish, and implement through their respective laws or regulations by January 1, 1994, Uniform Regulations regarding the interpretation, application and administration of Chapter Four, this Chapter and other matters as may be agreed by the Parties. 2. Each Party shall implement any modification of or addition to the Uniform Regulations no later than 180 days after the Parties agree on such modification or addition, or such other period as the Parties may agree.



Overview

This factsheet covers the following topics from the new United States-Mexico-Canada Agreement (USMCA): (1) Trade Facilitation, (2) Customs Initiatives for Trade Facilitation (3) Online Publication, (4) Communication with Traders, and (5) Inquiry Points. The North American Free Trade Agreement (NAFTA) does not cover these provisions or topics.

References

- **USMCA**
 - *Final Text*: Chapter 7, Articles 7.1, 7.2, 7.3, 7.4, and 7.23
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Trade Facilitation and Other Listed Provisions	<ul style="list-style-type: none"> • New to USMCA – (1) Trade Facilitation, (2) Customs Initiatives for Trade Facilitation (3) Online Publication, (4) Communication with Traders, and (5) Inquiry Points. • Most of these provisions already exist in the United States and are consistent with the World Trade Organization – Trade Facilitation Agreement. 	<ul style="list-style-type: none"> • Not specified.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Trade Facilitation and Other Listed Provisions	<p>Article 7.1: Trade Facilitation</p> <ol style="list-style-type: none"> 1. The Parties affirm their rights and obligations under the <i>Agreement on Trade Facilitation</i>, set out in Annex 1A to the WTO Agreement. 2. With a view to minimizing the costs incurred by traders through the importation, exportation, or transit of a good, each Party shall administer its customs procedures in a manner that facilitates the importation, exportation, or transit of a good, and supports compliance with its law. 3. The Parties shall discuss within the Trade Facilitation Committee established under Article 7.24 (Committee on Trade 	<ul style="list-style-type: none"> • Not specified.



Provision	USMCA	NAFTA
	<p>Facilitation) additional measures to facilitate trade. The Parties are encouraged to adopt additional measures that build on the obligations in this Chapter with a view to further facilitating trade.</p> <p>Article 7.2: Online Publication</p> <ul style="list-style-type: none"> • Each Party shall make available on a free, publicly accessible website the following information and update such information as necessary: <ul style="list-style-type: none"> a) an informational resource that describes the procedures and practical steps an interested person needs to follow for importation into, exportation from, or transit through the territory of the Party; b) the documentation and data that it requires for importation into, exportation from, or transit through its territory; c) its laws, regulations, and procedures for importation into, exportation from or transit through its territory; d) web links to all current customs duties, taxes, fees, and charges it imposes on or in connection with importation, exportation, or transit, including when the fee or charge applies, and the amount or rate; e) contact information for its enquiry point or points established or maintained pursuant to Article 7.4 (Enquiry Points); f) its laws, regulations, and procedures for becoming a customs broker, for issuing customs broker licenses, and regarding the use of customs brokers; g) informational resources that help an interested person understand their responsibilities when importing into, exporting from, or transiting goods through its territory, how to be compliant, and the benefits of compliance; and h) procedures to correct an error in a customs transaction, including the information to submit and, if applicable, the circumstances when penalties will not be imposed. 	

Provision	USMCA	NAFTA
	<p>Article 7.3: Communication with Traders</p> <ol style="list-style-type: none"> 1. To the extent possible, in accordance with its law, each Party shall publish, in advance, regulations of general application governing trade and customs matters that it proposes to adopt and shall provide interested persons the opportunity to comment before the Party adopts such regulations. 2. Each Party shall adopt or maintain a mechanism to regularly communicate with traders within its territory on its procedures related to the importation, exportation, and transit of goods. These communications shall provide traders with an opportunity to raise emerging issues and provide their views to the customs administration on these procedures. <p>Article 7.4: Enquiry Points</p> <ol style="list-style-type: none"> 1. Each Party shall establish or maintain one or more enquiry points to respond to enquiries by interested persons concerning importation, exportation, and transit procedures. 2. A Party shall not require the payment of a fee or charge for answering enquiries under paragraph 1.1 3. Each Party shall ensure that its enquiry points respond to enquiries within a reasonable period of time, which may vary depending on the nature or complexity of the request. <p>Article 7.23: Customs Initiatives for Trade Facilitation</p> <ol style="list-style-type: none"> 1. The Parties shall cooperate in the development and implementation of customs initiatives related to the trade facilitation measures described in this Section, as well as on other trade facilitation initiatives. 2. This cooperation may include information sharing or collaboration with respect to: <ol style="list-style-type: none"> a) best practices on the implementation of customs procedures; b) the management of customs and trade compliance measures; 	

Provision	USMCA	NAFTA
	<ul style="list-style-type: none">c) engagement between the customs administrations at the operational level to address issues related to regular cross-border operations and to resolve specific cases,d) including pending shipments; the development and implementation of procedures to facilitate cross border trade and improve customs operations related to the movement, release, and clearance of goods;e) the harmonization of cargo manifest data requirements in each mode of transportation;f) the implementation of programs designed to facilitate the movement of goods through their ports of entry, including, if feasible, alignment of hours of service, joint customs inspections, and the use of shared facilities; andg) the design, development, and construction of ports of entry located at their common borders.	



Overview

The United States-Mexico-Canada Agreement (USMCA) provision adds new elements to the Advance Rulings requirements that were not included in its predecessor, the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 5, Article 5.14; Chapter 7, Articles 7.6 and 7.16
- **NAFTA**
 - *Final Text*: Chapter 5, Article 509
 - *CFR*: 19 CFR §181 Subpart I

Significant Changes in USMCA

Provision	USMCA	NAFTA
Changes / Differences	New to USMCA <ul style="list-style-type: none"> • The importer, exporter, producer, or anyone who is related to the trade transaction can request an advance ruling and does not require a domestic resident to request an advance ruling for an exporter or producer. • An advance ruling applies to the ruling requester throughout the territory. • Availability for free online information on advance rulings • Advance rulings or modified/revoked rulings must be effective on the issuance date or a specific later date written in the ruling. However, if the original advance ruling requester demonstrates that he/she has relied on the ruling in good faith; and the modified ruling has caused harm to the requester, the modified ruling effective date will be delayed for up to 90 days. 	
Issuing Time	<ul style="list-style-type: none"> • An advance ruling must be issued within 120 days 	<ul style="list-style-type: none"> • Not specified.
Ruling Subjects	<ul style="list-style-type: none"> • Tariff classification • Customs valuation • Origin of goods • Quota • Other issues agreed upon 	<ul style="list-style-type: none"> • Not specified.
Modification or Revocation	<ul style="list-style-type: none"> • The USMCA outlines the reasons for Customs to modify or revoke an advance ruling. • Customs shall provide notification or revocation of any advance ruling. • However, an advance ruling cannot be retroactively revoked or modified if that will hurt the original ruling requester unless the requester did not follow the advance ruling or the ruling was based on false information provided by the requester. 	<ul style="list-style-type: none"> • NAFTA listed reasons with detailed information to allow customs to modify or revoke an advance ruling.

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CBP Publication No. 1132-0620



Provision	USMCA	NAFTA
Advance Rulings Relating to Origin	<ul style="list-style-type: none"> • Origin of goods, including qualifications for originating good, is one of the topic that advance rulings covering • Each customs administration must have its uniform procedures to issue an advance ruling on Origin of goods based on the Agreement and Uniform Regulation standards 	<ul style="list-style-type: none"> • NAFTA listed detailed topics related to origin of goods that advance rulings will cover: <ul style="list-style-type: none"> ○ qualification for production occurring entirely in the territory under Specific Rules or Origin ○ qualification for regional value-content based on value ○ qualification for regional value-content based on method of value ○ qualification for originating good ○ qualification for duty-free treatment on reentered goods ○ qualification for originating good as a good of a part regarding textile (Annex 300-B) and agriculture (Annex 302.2)

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Advance Rulings	<p>Article 7.5: Advance Rulings</p> <ol style="list-style-type: none"> 1. Each Party shall, through its customs administration, issue a written advance ruling prior to the importation of a good into its territory that sets forth the treatment that the Party shall provide to the good at the time of importation. 2. Each Party shall allow an exporter, importer, producer, or any other person with a justifiable cause, or a representative thereof, to request a written advance ruling. 3. No Party shall as a condition for requesting an advance ruling, require an exporter or producer of another Party to establish or maintain a contractual or other relation with a person located in the territory of the importing Party. 4. Each Party shall issue advance rulings with regard to: <ol style="list-style-type: none"> a) tariff classification; b) the application of customs valuation criteria for a particular case in accordance with the Customs Valuation Agreement; c) the origin of the good, including whether the good qualifies as an 	<p>Articles 509: Advance Rulings</p> <ol style="list-style-type: none"> 1. Each Party shall, through its customs administration, provide for the expeditious issuance of written advance rulings, prior to the importation of a good into its territory, to an importer in its territory or an exporter or a producer in the territory of another Party, on the basis of the facts and circumstances presented by such importer, exporter or producer of the good, concerning: <ol style="list-style-type: none"> a) whether materials imported from a non-Party used in the production of a good undergo an applicable change in tariff classification set out in Annex 401 as a result of production occurring entirely in the territory of one or more of the Parties; b) whether a good satisfies a regional value-content requirement under either the transaction value method or the net cost method set out in Chapter Four; c) for the purpose of determining whether a good satisfies a regional value-content requirement under Chapter Four, the appropriate basis or method for value to be applied by an exporter or a producer in the territory of another Party, in accordance with

Provision	USMCA	NAFTA
	<p>originating good under the terms of this Agreement;</p> <p>d) whether a good is subject to a quota or a tariff-rate quota; and</p> <p>e) other matters as the Parties may agree.</p> <p>5. Each Party shall adopt or maintain uniform procedures throughout its territory for the issuance of advance rulings, including a detailed description of the information required to process an application for a ruling.</p> <p>6. Each Party shall provide that its customs administration:</p> <p>a) may, at any time during the course of an evaluation of a request for an advance ruling, request supplemental information from the person requesting the ruling or a sample of the good for which the advance ruling was requested;</p> <p>b) in issuing an advance ruling, take into account the facts and circumstances provided by the person requesting that ruling;</p> <p>c) issue the ruling as expeditiously as possible and in no case later than 120 days after it has obtained all necessary information from the person requesting an advance ruling; and</p> <p>d) provide to that person a full explanation of the reasons for the ruling.</p> <p>7. Each Party shall provide that its advance rulings take effect on the date that they are issued or on a later date specified in the ruling, and remain in effect unless the advance ruling is modified or revoked.</p> <p>8. Each Party shall provide to a person requesting an advance ruling the same treatment, including the same interpretation and application of provisions of Chapter 4 (Rules of Origin) regarding a determination of origin, as it provided to any other person to whom it issued an advance</p>	<p>the principles of the Customs Valuation Code, for calculating the transaction value of the good or of the materials used in the production of the good;</p> <p>d) for the purpose of determining whether a good satisfies a regional value-content requirement under Chapter Four, the appropriate basis or method for reasonably allocating costs, in accordance with the allocation methods set out in the Uniform Regulations, for calculating the net cost of the good or the value of an intermediate material;</p> <p>e) whether a good qualifies as an originating good under Chapter Four;</p> <p>f) whether a good that re-enters its territory after the good has been exported from its territory to the territory of another Party for repair or alteration qualifies for duty-free treatment in accordance with Article 307 (Goods Re-Entered after Repair or Alteration);</p> <p>g) whether the proposed or actual marking of a good satisfies country of origin marking requirements under Article 311 (Country of Origin Marking);</p> <p>h) whether an originating good qualifies as a good of a Party under Annex 300-B (Textile and Apparel Goods) , Annex 302.2 (Tariff Elimination) or Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures) ;</p> <p>i) whether a good is a qualifying good under Chapter Seven; or</p> <p>j) such other matters as the Parties may agree.</p> <p>2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including a detailed description of the information reasonably required to process an application for a ruling.</p> <p>3. Each Party shall provide that its customs administration:</p>

Provision	USMCA	NAFTA
	<p>ruling, provided that the facts and circumstances are identical in all material respects.</p> <p>9. An advance ruling issued by a Party shall apply throughout its territory to the person to whom the ruling is issued.</p> <p>10. After issuing an advance ruling, the issuing Party may modify or revoke the advance ruling if there is a change in the law, facts, or circumstances on which the ruling was based, or if the ruling was based on inaccurate or false information, or on an error.</p> <p>11. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of a post clearance audit or an administrative, judicial, or quasi-judicial review or appeal. A Party that declines to issue an advance ruling shall promptly notify, in writing, the person requesting the ruling, setting out the relevant facts and circumstances and the basis for its decision.</p> <p>12. No Party shall apply retroactively a revocation or modification to the detriment of the requester unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions or the ruling was based on inaccurate or false information provided by the requester.</p> <p>13. Each Party shall provide that, unless it retroactively applies a modification or revocation as described in paragraph 12, any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein.</p> <p>14. The issuing Party shall postpone the effective date of such modification or revocation for a period not exceeding 90 days if the person to whom the advance ruling was issued demonstrates that it has relied in good faith to its detriment on that ruling.</p>	<p>a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling;</p> <p>b) shall, after it has obtained all necessary information from the person requesting an advance ruling, issue the ruling within the periods specified in the Uniform Regulations; and</p> <p>c) shall, where the advance ruling is unfavorable to the person requesting it, provide to that person a full explanation of the reasons for the ruling.</p> <p>4. Subject to paragraph 6, each Party shall apply an advance ruling to importations into its territory of the good for which the ruling was requested, beginning on the date of its issuance or such later date as may be specified in the ruling.</p> <p>5. Each Party shall provide to any person requesting an advance ruling the same treatment, including the same interpretation and application of provisions of Chapter Four regarding a determination of origin, as it provided to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects.</p> <p>6. The issuing Party may modify or revoke an advance ruling:</p> <p>a) if the ruling is based on an error</p> <ol style="list-style-type: none"> i. of fact, ii. in the tariff classification of a good or a material that is the subject of the ruling, iii. in the application of a regional value-content requirement under Chapter Four, iv. in the application of the rules for determining whether a good qualifies as a good of a Party under Annex 300-B, 302.2 or Chapter Seven, v. in the application of the rules for determining whether a good is a

Provision	USMCA	NAFTA
	<p>15. Each Party shall, in accordance with its laws, regulations, and procedures, make its advance rulings, complete or redacted, available on a free, publicly accessible website.</p> <p>Article 5.14: Advance Rulings Relating to Origin</p> <p>1. In accordance with Article 7.5 (Advance Rulings), each Party, through its customs administration, shall, upon request, provide for the issuance of a written advance ruling on origin under this Agreement.</p> <p>2. Each Party shall adopt or maintain uniform procedures throughout its territory for the issuance of advance rulings on origin under this Agreement, including the common standards set out in the Uniform Regulations regarding the information required to process an application for a ruling.</p> <p>Article 7.16: Administrative Guidance</p> <p>1. Each Party shall adopt or maintain an administrative procedure by which a customs office in its territory may request the appropriate authority of the customs administration to provide guidance as to the proper application of laws, regulations, and procedures for importation into, exportation from, or transit through its territory with respect to a specific customs transaction, regardless of whether the transaction is prospective, pending, or has been completed. A customs office shall request guidance under this administrative procedure on its own initiative or at the written request of an importer or exporter in its territory, or a representative thereof.</p> <p>2. The appropriate authority of a Party shall provide guidance in response to a request under paragraph 1 if the customs treatment applied or proposed to be applied by the customs office to the transaction is inconsistent with the customs treatment provided with respect to transactions that are identical</p>	<p>qualifying good under Chapter Seven, or</p> <p>vi. in the application of the rules for determining whether a good that re-enters its territory after the good has been exported from its territory to the territory of another Party for repair or alteration qualifies for duty-free treatment under Article 307;</p> <p>b) if the ruling is not in accordance with an interpretation agreed by the Parties regarding Chapter Three (National Treatment and Market Access for Goods) or Chapter Four;</p> <p>c) if there is a change in the material facts or circumstances on which the ruling is based;</p> <p>d) to conform with a modification of Chapter Three, Chapter Four, this Chapter, Chapter Seven, the Marking Rules or the Uniform Regulations; or</p> <p>e) to conform with a judicial decision or a change in its domestic law.</p> <p>7. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued or on such later date as may be specified therein and shall not be applied to importations of a good that have occurred prior to that date, unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.</p> <p>8. Notwithstanding paragraph 7, the issuing Party shall postpone the effective date of such modification or revocation for a period not exceeding 90 days where the person to whom the advance ruling was issued has relied in good faith to its detriment on that ruling.</p> <p>9. Each Party shall provide that where its customs administration examines the regional value content of a good for which it has issued an advance ruling pursuant to subparagraph 1(c), (d) or (f), it shall evaluate whether:</p>

Provision	USMCA	NAFTA
	<p>in all material respects, including by another customs office in the territory of the Party.</p> <p>3. Each Party shall make available to the public on a free, publicly accessible website the procedures, including any forms, for requesting guidance under paragraph 1.</p> <p>4. Each Party shall allow an importer or exporter to whom a request under paragraph 1 relates an opportunity to submit written views and information to the appropriate authority of the customs administration before it issues guidance in response to a request.</p> <p>5. Guidance in response to a request under paragraph 1 shall be taken into account by the customs office with respect to the transaction that is the subject of the request, provided that there is not a ruling or determination issued on the transaction and the facts and circumstances remain the same.</p> <p>6. Nothing in this Article requires the appropriate authority of the customs administration to provide guidance on transactions for which a determination has been made, or for which a determination has been applied consistently throughout its territory; on transactions for which a determination is pending; if an importer or exporter has requested a ruling or has received a ruling that has been applied consistently throughout its territory; or on transactions for which a determination or ruling is being reviewed.</p>	<p>a) the exporter or producer has complied with the terms and conditions of the advance ruling;</p> <p>b) the exporter's or producer's operations are consistent with the material facts and circumstances on which the advance ruling is based; and</p> <p>c) the supporting data and computations used in applying the basis or method for calculating value or allocating cost were correct in all material respects.</p> <p>10. Each Party shall provide that where its customs administration determines that any requirement in paragraph 9 has not been satisfied, it may modify or revoke the advance ruling as the circumstances may warrant.</p> <p>11. Each Party shall provide that, where the person to whom an advance ruling was issued demonstrates that it used reasonable care and acted in good faith in presenting the facts and circumstances on which the ruling was based, and where the customs administration of a Party determines that the ruling was based on incorrect information, the person to whom the ruling was issued shall not be subject to penalties.</p> <p>12. Each Party shall provide that where it issues an advance ruling to a person that has misrepresented or omitted material facts or circumstances on which the ruling is based or has failed to act in accordance with the terms and conditions of the ruling, the Party may apply such measures as the circumstances may warrant.</p>



Overview

The new United States-Mexico-Canada Agreement (USMCA) requires Parties to use a single window system that enables the electronic submission through a single entry. USMCA also has a new provision regarding the use of information technology to increase efficiency and accessibility of electronic systems, including electronic submission of customs declarations and electronic payments. There were no such provisions in the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 7, Articles 7.9 and 7.10
- **NAFTA**
 - No provision.

Significant Changes in USMCA

Provision	USMCA	NAFTA
Use of Information Technology	<p>New to USMCA</p> <ul style="list-style-type: none"> • The USMCA requires Parties to employ technology across all processes to increase efficiency. This includes <ol style="list-style-type: none"> i. making available all forms/documents required for import/export; ii. permitting the electronic submission of customs declarations; iii. permitting the electronic payment of duties, taxes, and fees; and iv. "endeavoring to allow" an importer to correct multiple import declarations through a single form. 	<ul style="list-style-type: none"> • No provision.
Single Window	<p>New to USMCA</p> <ul style="list-style-type: none"> • The USMCA requires Parties to establish or maintain a single window system that enables the electronic submission through a single entry point of the documentation and data required for importation. 	<ul style="list-style-type: none"> • No provision.

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Use of Information Technology	<p>Article 7.9: Use of Information Technology</p> <ul style="list-style-type: none"> • Each Party shall: <ul style="list-style-type: none"> a) use information technology that expedites procedures for the release of goods; b) make available by electronic means any declaration or other form that is required for import, export, or transit of goods through its territory; c) allow a customs declaration and related documentation to be submitted in electronic format; d) make electronic systems accessible to importers, exporters, persons engaged in the transit of goods through its territory, and other customs users in order to submit and receive information; e) promote the use of its electronic systems to facilitate the communication between traders and its customs administration and other related agencies; f) adopt or maintain procedures allowing for the electronic payment of customs duties, taxes, fees, or charges imposed on or in connection with importation or exportation and collected by customs and other related agencies; g) use electronic risk management systems in accordance with Article 7.12 (Risk Management); and h) endeavor to allow an importer, through its electronic systems, to correct multiple import declarations previously submitted to the Party involving the same issue through a single submission. 	<ul style="list-style-type: none"> • No provision.
Single Window	<p>Article 7.10: Single Window</p> <ol style="list-style-type: none"> 1. Each Party shall establish or maintain a single window system that enables the electronic submission through a single entry point of the documentation and data the Party requires for importation into its territory. 2. Each Party shall review the operations of its single window system with a view to expanding its functionality to cover all its import, export, and transit transactions. 3. Each Party shall, in a timely manner, inform a person that is using its single window system of the status of the release of goods, through the single window system. 4. If a Party receives documentation or data for a good or shipment of goods through its single window system, the Party shall not request the same documentation or data for that good or shipment of goods, except in urgent circumstances or pursuant to other limited exceptions set out in its laws, regulations, or procedures. Each Party shall 	<ul style="list-style-type: none"> • No provision.

Provision	USMCA	NAFTA
	<p>minimize the extent to which paper documents are required if electronic copies are provided.</p> <p>5. In building and maintaining its single window system, each Party shall:</p> <ul style="list-style-type: none"> a) incorporate, as appropriate, the World Customs Organization Data Model for data elements; b) endeavor to implement standards and data elements for import, export, and transit that are the same as the other Parties' single window system; and c) on an ongoing basis, streamline its single window system, including by adding functionality to facilitate trade, improve transparency, and reduce release times and costs. <p>6. In implementing paragraph 5, the Parties shall:</p> <ul style="list-style-type: none"> a) share with each other their respective experiences in developing and maintaining their single window system; and b) work towards a harmonization, to the extent possible, of data elements and customs processes that facilitate use of a single transmission of information to both the exporting and importing Party. 	



Overview

This provision is the same between the new United States-Mexico-Canada Agreement (USMCA) and the former North American Free Trade Agreement (NAFTA). It covers “waste and scrap” derived from the production in the territory of one or more USMCA country or used goods collected in the territory of one or more USMCA country, if such goods are fit only for the recovery of raw materials.

References

- **USMCA**
 - *Final Text*: Chapter 4, Article 4.3
 - *HR 5430 Citation*: Title II, Section 202
- **NAFTA**
 - *Final Text*: Chapter 4, Article 415

Significant Changes in USMCA

Provision	USMCA	NAFTA
Waste and Scrap	No change – Provision is same as NAFTA.	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Waste and Scrap	<ul style="list-style-type: none"> • Waste and scrap derived from (i) production there, or (ii) used goods collected there, provided the goods are fit only for the recovery of raw materials; and (k) a good produced there, exclusively from goods referred to in subparagraphs (a) through (j), or from their derivatives, at any stage of production. 	<ul style="list-style-type: none"> • Production in the territory of one or more of the Parties, or used goods collected in the territory of one or more of the Parties, provided such goods are fit only for the recovery of raw materials; and (j) goods produced in the territory of one or more of the Parties exclusively from goods referred to in subparagraphs (a) through (i), or from their derivatives, at any stage of production.





Overview

The chemical reaction rules for the new United States-Mexico-Canada Agreement (USMCA) are the same as they were under the North American Free Trade Agreement (NAFTA). However, certain chemicals may be subject to revised rules of origin under USMCA. The complete USMCA product-specific list may be found in Section B: Product Specific Rules of Origin.

The same eight (8) chemical processes confer origin for NAFTA and USMCA. For purposes of heading 27.10., USMCA adds a new rule regarding origin of diluent.

References

- **USMCA**
 - *Final Text*: Chapter 4, Annex 4-B
- **NAFTA**
 - General Note 12

Significant Changes in USMCA

Provision	USMCA	NAFTA
Chemical Reaction Rules	<ul style="list-style-type: none"> • No change – A “chemical reaction” is a process (including a biochemical process) that results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule. 	
Chemical Process Based Rules	<ul style="list-style-type: none"> • No change - The eight (8) chemical process-based rules are: <ul style="list-style-type: none"> ○ Atmospheric Distillation; ○ Vacuum Distillation; ○ Catalytic Hydro Processing; ○ Reforming (Catalytic Reforming); ○ Alkylation; ○ Cracking (Thermal and Catalytic); ○ Isomerization; and ○ Coking. 	
Diluent Rule	<ul style="list-style-type: none"> • Origin of the diluent that is used to facilitate the transportation of crude petroleum oils is disregarded, provided that the diluent constitutes no more than 40 percent by volume of the good. 	<ul style="list-style-type: none"> • No provision.

FACT SHEET

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Chemical Reaction Rules	<ul style="list-style-type: none"> • Notwithstanding the applicable product-specific rules of origin, a good of chapter 27 that is the product of a chemical reaction is an originating good if the chemical reaction occurred in the territory of one or more of the Parties. • For the purposes of this rule, a “chemical reaction” is a process (including a biochemical process) that results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule. • The following are not chemical reactions: <ol style="list-style-type: none"> a) dissolving in water or other solvents; b) the elimination of solvents, including solvent water; or c) the addition or elimination of water of crystallization. 	<ul style="list-style-type: none"> • For purposes of heading 2707, a chemical reaction is a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of atoms in a molecule. • The following are not considered to be chemical reactions for the purposes of this definition: <ol style="list-style-type: none"> a) dissolving in water or other solvents; b) the elimination of solvents, including solvent water; or c) the addition or elimination of water of crystallization.
Chemical Process Based Rules	<p>For the purposes of heading 27.10, the following processes confer origin:</p> <ol style="list-style-type: none"> a) Atmospheric Distillation: A separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapor then condensed into different liquefied fractions. Liquefied petroleum gas, naphtha, gasoline, kerosene, diesel/heating oil, light gas oils, and lubricating oil are produced from petroleum distillation; b) Vacuum Distillation: Distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation. Vacuum distillation is useful for distilling high-boiling and heat-sensitive materials such as heavy distillates in petroleum oils to produce light to heavy vacuum gas oils and residuum. In some refineries gas oils may be further processed into lubricating oils; c) Catalytic Hydroprocessing: The cracking or treating of petroleum oils with hydrogen at high temperature and under pressure, in the presence of special 	<p>For the purposes of heading 2710, the following processes confer origin:</p> <ol style="list-style-type: none"> a) Atmospheric Distillation: A separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapor then condensed into different liquefied fractions. Liquefied petroleum gas, naphtha, gasoline, kerosene, diesel/heating oil, light gas oils and lubricating oil are produced from petroleum distillation; b) Vacuum Distillation: Distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation. Vacuum distillation is useful for distilling high-boiling and heat-sensitive materials such as heavy distillates in petroleum oils to produce light to heavy vacuum gas oils and residuum. In some refineries gas oils may be further processed into lubricating oils; c) Catalytic Hydroprocessing: The cracking and/or treating of petroleum oils with hydrogen at high temperature and under pressure, in the presence of special

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	<p>catalysts. Catalytic hydroprocessing includes hydrocracking and hydro treating;</p> <p>d) Reforming (Catalytic Reforming): The rearrangement of molecules in a naphtha boiling range material to form higher octane aromatics (<i>i.e.</i>, improved antiknock quality at the expense of gasoline yield). A main product is catalytic reformat, a blend component for gasoline. Hydrogen is another by-product;</p> <p>e) Alkylation: A process whereby a high-octane blending component for gasolines is derived from catalytic combination of an isoparaffin and an olefin;</p> <p>f) Cracking: A refining process involving decomposition and molecular recombination of organic compounds, especially hydrocarbons obtained by means of heat, to form molecules suitable for motor fuels, monomers, petrochemicals, etc.;</p> <p>i. Thermal Cracking: Exposes the distillate to temperatures of approximately 540-650C (1000-1200F) for varying periods of time. Process produces modest yields of gasoline and higher yields of residual products for fuel oil blending, or</p> <p>ii. Catalytic Cracking: Hydrocarbon vapors are passed at approximately 400C (750F) over a metallic catalyst (e.g., silica-alumina or platinum); the complex recombinations (alkylation, polymerization, isomerization, etc.) occur within seconds to yield high-octane gasoline. Process yields less residual oils and light gases than thermal cracking;</p> <p>g) Coking: A thermal cracking process for the conversion of heavy low grade products, such as reduced crude, straight run pitch, cracked tars, and shale oil into solid coke (carbon) and lower boiling hydrocarbon products which are suitable as feed for other refinery units for conversion into lighter products; and</p>	<p>catalysts. Catalytic hydroprocessing includes hydrocracking and hydrotreating;</p> <p>d) Reforming (Catalytic Reforming): The rearrangement of molecules in a naphtha boiling range material to form higher octane aromatics (<i>i.e.</i>, improved antiknock quality at the expense of gasoline yield). A main product is catalytic reformat, a blend component for gasoline. Hydrogen is another by-product;</p> <p>e) Alkylation: A process whereby a high-octane blending component for gasolines is derived from catalytic combination of an isoparaffin and an olefin;</p> <p>f) Cracking: A refining process involving decomposition and molecular recombination of organic compounds, especially hydrocarbons obtained by means of heat, to form molecules suitable for motor fuels, monomers, petrochemicals, etc.;</p> <p>i. Thermal Cracking: Exposes the distillate to temperatures of approximately 540o C to 650o C for varying periods of time. Process produces modest yields of gasoline and higher yields of residual products for fuel oil blending;</p> <p>ii. Catalytic Cracking: Hydrocarbon vapors are passed at approximately 400C over a metallic catalyst (e.g., silica-alumina or platinum); the complex recombinations (alkylation, polymerization, isomerization, etc.) occur within seconds to yield high-octane gasoline. Process yields less residual oils and light gases than thermal cracking</p> <p>g) Coking: A thermal cracking process for the conversion of heavy low-grade products, such as reduced crude, straight run pitch, cracked tars and shale oil, into solid coke (carbon) and lower boiling hydrocarbon products which are suitable as feed for other refinery units for conversion into lighter products; or</p>

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	<p>h) Isomerization: The refinery process of converting petroleum compounds into their isomers.</p>	<p>h) Isomerization: The refinery process of converting petroleum compounds into their isomers.</p> <ol style="list-style-type: none"> 1. A change to headings 2701 through 2703 from any other chapter. 2. A change to heading 2704 from any other heading. 3. A change to headings 2705 through 2706 from any other heading, including another heading within that group. <p><i>(Reference: General Note 12)</i></p>
Diluent Rule	<ul style="list-style-type: none"> • Note 4: For the purposes of determining whether or not a good of heading 27.09 is an originating good, the origin of diluent of heading 27.09 or 27.10 that is used to facilitate the transportation between Parties of crude petroleum oils and crude oils obtained from bituminous minerals of heading 27.09 is disregarded, provided that the diluent constitutes no more than 40 percent by volume of the good. <p><i>(Reference: Chapter 4, Annex 4-B)</i></p>	<ul style="list-style-type: none"> • No provision.