



U.S.-MEXICO-CANADA AGREEMENT (USMCA)

The U.S.–Mexico–Canada Agreement (USMCA) replaces the North American Free Trade Agreement (NAFTA), which was signed into law on December 8, 1993 and went into effect on January 1, 1994. Beginning in early 2017, the Trump Administration began renegotiations with Mexico and Canada to replace the NAFTA with a modernized system of rules and standards that addresses recent and emerging technology and trade issues.

All three countries signed the USMCA in late 2018, followed by ratification by each country, with the U.S. last to ratify on January 29, 2020. The U.S. Trade Representative (USTR) announced that the agreement would enter into force on July 1, 2020.

Each country has taken to placing their country name first; Canada refers to this agreement as the Canada – United States – Mexico Agreement (CUSMA) and Mexico refers to the agreement as Tratado entre México, Estados Unidos y Canadá (T-MEC). Although each country puts their country name first, all three countries agreed to the same terms under the new agreement.

KEY CHANGES FROM NAFTA TO USMCA

Much of the text and rules under the NAFTA have remained unchanged; however, the USMCA agreement still includes many changes both minor and significant.

Rules of Origin – Although there were little to no changes to the rules of origin for most commodities, the USMCA includes significant originating rule changes for certain commodities including automobiles, auto parts and textiles. Importers and exporters must carefully review the specific Rules of Origin (Chapter 4) under USMCA for their specific industry and/or commodity.

AUTOMOBILES AND AUTO PARTS:

- **Finished vehicles** will have to meet the Regional Value Content (RVC) for passenger vehicles/light trucks that will increase from 62.5% to 66% in 2020 and



with annual increase to 75% by 2023. Heavy trucks will increase from 60% to 70% in 2027 or 7 years from implementation.

- There are three different categories of **Automotive Parts**:
 - **Core Parts**: Parts such as engine, transmission, body, chassis, axle, suspension, steering, and advanced batteries, have to meet a 66% RVC July 1, 2020 and will increase to 75% by 2023
 - **Principal Parts**: Including tires, glass, starter motors, mufflers, etc. require an RVC of 62.5% July 1, 2020 and will increase to 70% in 2023.
 - **Complimentary Parts**: Including lights, switches, small electric motors, locks etc. will require an RVC of **62%** in 2020 and will increase to **65% in 2023**.
- **Steel and Aluminum** content must be 70% originating in the North America. The steel must be melted and poured in the region.
- **Labor Value Content (LVC)** requires production of 40% of automobiles, and 45% of light trucks, to include an average production labor wage of \$16 per hour.

TEXTILES AND APPAREL

- Existing fiber, yarn or fabric forward rules apply in USMCA.
- The de minimis threshold increased from 7% to 10% of total weight for non-originating content (7% for elastomeric content).
- The “visible lining rule” has been eliminated.
- Each article in a set must be an originating good, unless the value of the non-originating articles in the set does not exceed 10% of the value of the set.
- Sewing thread, narrow elastic fabric, pocket bags and coated fabrics must be originating.
- Certain fibers, yarns and fabrics that are not available in commercial quantities, also known as “Short Supply”, can be of foreign origin, as long as the cut-and-assemble process occurs in the region.
- Temporary duty free entry of goods under the Tariff Preference Level (TPL) program remains in USMCA but has been restructured and rebalanced.

Certification and Supplier Solicitation – The certificate of origin that was required under the NAFTA (CBP form 434) is not required, or applicable, under the USMCA. However, a certificate of origin is required to substantiate a claim for duty free treatment under the USMCA. The certification can be in any format but must include the nine (9) criteria as defined in the USMCA, [Chapter 5](#), Annex 5-A; Minimum Data Elements.



The Certificate of Origin criteria includes:

1. Completed by Importer, Exporter or Producer
2. Certifier's name, title, address and contact information
3. Exporter's name, address and contact info, if different than "certifier"
4. Producer's name, address and contact info, if different from "certifier"
5. Importer's name, address and contact info, if known
6. Description and HTS Tariff Classification
7. Originating Criteria
8. Blanket Period
9. Authorized Signature and Date with certifying statement (see Annex 5-A)

Supplier solicitation conducted to qualify products under the NAFTA will not apply with the implementation of USMCA. Even if the commodity rule of origin did not change, the certifying party must review their supply chain and solicit suppliers to certify that products qualify as originating under USMCA.

Recordkeeping and Verifications – Any importer who claims duty preference under USMCA will be required to maintain records that support the origin of the good including the certificate of origin. Any party who completes a certificate of origin must maintain records related to the origin of the good including, purchase of, cost of, value of, shipping of, and payment for all direct or indirect materials and production of the good (Chapter 5, Article 5.8). Records must be held for no less than five years and must be made available, for examination and inspection, upon request from CBP.

Under the USMCA, CBP may conduct a verification of a claim to determine whether an imported good, entered with USMCA preferential treatment, qualifies as originating. CBP might request information in writing to the importer or exporter, conduct a verification visit to the exporter or producer of the good, or another procedure decided by CBP.

Entry and Merchandise Processing Fee (MPF) – When a USMCA qualifying claim is made on entry into the U.S., the entry summary will include the Special Program Indicator (SPI) of "S" or "S+". The MX or CA used under NAFTA will no longer apply. When the USMCA SPI is claimed at entry, the Merchandise Processing Fee (MPF) is exempt.

If a product is normally duty free, the SPI "S" or "S+" will not be listed in the HTS Column 1 and MPF will not be exempted. However, importers can still claim "S" to be



exempt from MPF, but the good must originate and is subject to USMCA certification and verification requirements.

If an importer does not claim USMCA at the time of entry, the importer can request a refund of duties by filing a post-importation claim for USMCA within one year after entry. The MPF fee will not be refunded in post-importation claims.

De Minimis/Low Value Entry – Although the U.S. de minimis threshold for duty assessment on low-value goods is still significantly higher than the threshold for imports into Canada and Mexico, both countries did increase their value thresholds for duty free entry under the USMCA:

Canada – Duty free entry for goods valued at ≤C\$150 and tax free for ≤C\$40

Mexico – Duty free entry for goods valued at ≤\$117 USD and tax free for ≤\$50 USD

U.S. – Duty free for entry of goods valued at ≤\$800 USD

Dairy Industry Market Access – Tariffs for most agriculture products were phased out under NAFTA; however, U.S. dairy products including milk powder, cheese, whey protein and other dairy products were still subject to high duties, quotas and other non-tariff barriers for imports into Canada. Under the USMCA Canada's Dairy Supply Management System is no longer able to place restrictions on certain U.S. dairy products imported into Canada, opening about 3.5% of Canada's dairy industry to U.S. farmers. The U.S. increased its import quota levels for Canadian dairy and sugar products.

Intellectual Property – The NAFTA protected copyright and trademarks for 50 years beyond the life of the author. The USMCA extends that period to 70 years and strengthens protections for patents and trademarks in the areas such as biotech, financial services and domain names. Additionally, the USMCA addressed the digital economy by prohibiting duties on electronic transmissions of music, video games, books or software.

Dispute Resolution – An important component, and intensely negotiated, component of the NAFTA, was the chapter on dispute resolution. Most of the mechanisms for disputes related to application of the NAFTA, including binational dispute settlements to review trade remedy disputes, remain in place with the implementation of USMCA. However, the USMCA terminates the investor-state dispute settlement (ISDS) for Canada but maintains certain (ISDS) between the U.S. and Mexico.



Environment – Under the USMCA, all three countries have agreed to the most comprehensive, and enforceable, chapter on environmental protections of any other trade agreement to date. The new chapter includes combatting trafficking in wildlife, timber, and fish and, for the first time ever, obligations to improve environmental issues such as air quality and marine litter.

Sunset Clause – Unlike NAFTA, or any other Trade Agreement, the USMCA includes a sunset clause that expires the agreement sixteen (16) years after entry into force, unless each party agrees to continue the agreement for a new 16-year term. All three countries are required to jointly review and agree on renewal every six (6) years.

REGULATORY UPDATES

The Harmonized Tariff Schedule (HTS) will be updated to include General Note 11 (GN11) covering the USMCA information and rules of origin, and the SPI of “S” will be added to the code.

The Code of Federal Regulation Title 19 (CFR19), Part 182 is being amended to implement the new regulations related to USMCA.

RESOURCES:

U.S. Trade Representative (USTR) USMCA

<https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>

CBP USMCA Page & Frequently Asked Questions (FAQs)

<https://www.cbp.gov/trade/priority-issues/trade-agreements/free-trade-agreements/USMCA>

CBP USMCA Center

<https://www.cbp.gov/newsroom/national-media-release/cbp-launches-united-states-mexico-canada-center-coordinate>

CBP Interim Implementation Instructions

<https://www.cbp.gov/sites/default/files/assets/documents/2020-Apr/Implementation%20Instructions.pdf>