



NAFTA TO USMCA – TRANSITION PLAN

Products that qualified under NAFTA do not necessarily qualify under USMCA; therefore, Importers, Exporters, and Producers must develop a plan to review all products, whether or not currently claiming NAFTA, to determine if they will qualify for USMCA on July 1, 2020, and that those claims can be substantiated upon a verification request from Customs and Border Protection (CBP).

STEP 1 – PRODUCT REVIEW

The first step is to review all imported and/or exported products, parts and components and verify how they are classified and if the country of origin is correct.

- **Product Classification:** Review current product Harmonized Tariff Schedule (HTS) or Schedule B classifications for finished goods and component parts and inputs.
 - Reclassify or obtain binding rulings to ensure that USMCA qualification is based on accurate product classifications.
- **Country of Origin:** Confirm that country of origin determinations are accurate for finished goods and component parts and inputs.
 - Identifying regional and foreign parts is necessary to conduct Tariff Shift or Regional Value Content (RVC) determinations.
- **Valuation:** Know the value of each component, part or material as part of the finished good.
- **Bill of Material (BOM) and Product Specifications:** Use the BOM or product specs to ensure that all components have been verified for proper classification, country of origin and costs.

STEP 2 – DETERMINE USMCA ELIGIBILITY

Once you have confirmed that your product is properly classified, confirmed that the country of origin is accurate, and that you have true costs for each component, you can now determine if your product qualifies under USMCA.

- **Review Rule of Origin:** Thoroughly review the specific rule of origin, set out in [Chapter 4, Rules of Origin](#), for the HTS/Schedule B number for your product. The rules may have changed from the qualifying rule under NAFTA.



- **Rule of Origin:** Products are certified as originating based on the four standard rules provided in *Chapter 4, Article 4.2*. Where there are non-originating parts or materials, the Product Specific Rules of Origin (*Annex 4-B, Section B*) must be applied based on either a Tariff Shift or Regional Value Content (RVC) rule.
 - a. **Automotive Appendix:** All autos and auto parts are certified based on the auto specific rules, including Regional Value Content (RVC), Labor Content Value (LVC), Aluminum and Steel content, (*4-B-1-1 through 4-B-1-47*)
- **The De Minimis Rule:** Review value of non-originating materials and apply the De Minimis rule as set out in *Article 4.12* of Chapter 4, in which a good is originating if the value of all non-originating materials is not more than 10%.
- **Sets, Kits or Composite Goods:** Carefully review the originating rules for sets, kits and composite good as set out in *Article 4.17*.
- **Supplier Solicitation:** Even if the commodity rule of origin did not change, the certifying party must solicit suppliers to certify that products qualify as originating under USMCA.

STEP 3 –USMCA CERTIFICATION

Although the NAFTA certificate of origin form (CBP form 434) is not required under USMCA, a certificate of origin is still required to substantiate a claim for duty free treatment under the USMCA.

- **USMCA Certificate of Origin:** There is no prescribed format requirements for the certification of origin; however, *Chapter 5, Annex 5-A* provides the required Minimum Data Elements for certification.
 - The certifying party can be either the Importer, Exporter or Producer.
 - Develop a template that includes all required data elements.
 - Review all products and create certificates of origin for all eligible products.
- **Provide New USMCA Certification to Customers:** Be prepared to provide certifications of origin to your U.S., Canadian or Mexican customers.
- **Communicate with your Broker:** Keep your Broker informed regarding product eligibility to ensure USMCA is claimed at entry or for post entry claims.
 - Provide either blanket or per shipment certificates of origin.



STEP 4 – MAINTAIN USMCA ELIGIBILITY

Like NAFTA, to ensure continued compliance and eligibility under USMCA, Importers, Exporters and Producers must review and certify products at least annually and records must be kept to substantiate any claim.

- **Audit your Entries:** Importers must review entries where USMCA is claimed to ensure that the duty free claim was filed properly.
- **Annual Recertification:** Solicit suppliers and vendors annually and recertify products under the product specific Rules of Origin.
- **Recordkeeping:** Maintain certificates provided to customers or used on entry for five (5) years. Be prepared to provide substantiating documentation to CBP upon a Verification Request (*Article 7.27*).

PROFESSIONAL ADVICE/ASSISTANCE

To ensure compliance and proper application of the requirements under the USMCA, engage with your Broker, a Trade Consultant or a Trade Lawyer.

M.E. Dey & Co. can provide assistance through our Consulting Services.

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>
- Uniform Regulations Regarding Chapters 5 (Origin Procedures), 6 (Textiles and Apparel), and 7 (Customs Administration and Trade Facilitation)
<https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/UniformRegulations.pdf>
- Uniform Regulations Regarding Chapter 4 (Rules of Origin)
<https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/UniformRegulationsRulesofOrigin.pdf>