



Global Trade Advisory Alert

USMCA to enter into force on 1 July 2020 as the US progresses its implementation steps

On 24 April 2020, the US Trade Representative (“USTR”) notified the US Congress, as well as the Mexican and Canadian Governments, that the US completed its internal procedures required for the United States-Mexico-Canada Agreement (“USMCA” or “Agreement”) to take effect. Mexico and Canada had already provided their notifications on 2 and 3 April 2020, respectively. With all three countries’ notifications now issued, the USMCA is expected to enter into force on 1 July 2020.

In addition to providing its notification, the US Government has published additional guidance on the practical interpretation and implementation of the Agreement.

USTR releases procedures for the automotive alternative staging regime

Under the USMCA, the automotive industry must meet updated rule of origin (“ROO”) requirements for goods to

be eligible for preferential treatment. The USMCA includes phase-in periods for certain ROO requirements; e.g., a Regional Value Content ("RVC") threshold will increase annually from the date of entry into force. The phase-in timing differs by vehicle type. This regime is referred to as the standard staging regime ("SR"). The USMCA also allows automotive manufacturers to request an Alternative SR ("ASR").

To this end, on 21 April 2020, the USTR released procedures for the submission of petitions by US companies looking to claim preferential origin under an ASR. ASRs can last a total of five years for passenger vehicles and light trucks. To qualify for an ASR, vehicle producers must submit a draft petition by 1 July 2020 that sets forth certain details, including vehicle models, the duration of the proposed ASR from 1 July 2020, and a certification that the producer will meet the ASR requirements. Subsequently, the vehicle producer must submit a petition with its final ASR no later than 31 August 2020.

The quantity of passenger vehicles or light trucks subject to an ASR cannot exceed 10% of total number of such vehicles produced by a single automotive manufacturer. If a manufacturer wishes to apply an ASR for more than 10% of its production, it must request permission by completing an extended petition.

Heavy truck producers may also apply for an ASR so long as the heavy trucks meet the same requirements as passenger vehicles or light trucks, such as the 10% limitation.

If the USTR identifies deficiencies in the petition, it will notify the applicant no later than 30 days after receipt. The petitioner then has until 31 August 2020 to submit its revised plan.

ASRs will:

- exempt producers from the core parts requirement;
- extend the transition period up to five years instead of the three-year SR phase-in period, and
- introduce additional leniency for the requirements related to RVC, steel and aluminum ("S&A") purchasing, and Labor Value Content ("LVC").

Finally, ASRs approved by the US will only be valid for imports into the US. Should the producer be interested in an ASR for imports into Canada or Mexico, a separate process must be completed for the given territory.

CBP issues USMCA implementation guidance

On 16 April 2020, US Customs and Border Protection ("CBP") released initial guidance on the implementation of preferential claims under the USMCA. Among other things, it addresses the following topics:

1. Country of origin marking rules for goods imported from Canada or Mexico

Under the USMCA, except for agricultural goods, the NAFTA marking rules (19 CFR Part 102) will no longer be required: a good will *not* need to first qualify to be marked as a good of Canada or Mexico before meeting the rule of origin under General Note 11 to receive preferential tariff treatment.

Also, the USMCA special program indicator will be "S".

2. Post-importation claims of preferential origin permitted, but excludes MPF refunds

If preference was not claimed at the time of importation, the USMCA allows importers to make a post-importation claim to request a refund of excess duties within one year of importation under the refund statute (19 USC § 1520(d)). However, the Merchandise Processing Fee will not be refunded on a post-importation claim.

3. Automotive-specific rules of origin

For a vehicle to be eligible for preferential treatment, the importer, exporter, or producer must certify to CBP that it complies with the LVC, RVC, and S&A requirements. Of note, LVC information must also be submitted to the US Department of Labor ("DOL").

CBP also provided a list (subject to revisions) of Harmonized Tariff Schedule codes at the 6-digit level for which S&A purchasing requirements will apply.

Establishment of Interagency Labor Committee

On 28 April 2020, the White House issued an Executive Order established an Interagency Labor Committee for Monitoring and Enforcement ("Committee") pursuant to Section 711 of the USMCA Implementation Act. The Committee will be co-chaired by the USTR and DOL, and will include representatives from the Department of State, Department of the Treasury, Department of Agriculture, Department of Commerce, Department of Homeland Security, and US Agency for International Development. Other agencies may be invited to join the Committee, as deemed appropriate by the co-chairs.

The Committee will be responsible for the following activities:

- overseeing labor obligations;
- monitoring Mexican labor reform; and
- providing suggestions for Mexican and Canadian enforcement actions.

How we can help

Deloitte's Global Trade Advisory specialists are part of a global network of professionals who can provide specialized assistance to companies that need to manage their transition to the USMCA. Our professionals can help

companies proactively manage the potential impacts of this change, by:

- Conducting a USMCA readiness assessment, which may include:
 - Analyzing trade data to assess the current NAFTA footprint and identifying products that are impacted by the new USMCA rules of origin;
 - Reviewing impacts of new product-specific rules to confirm that goods will meet the new rules and will continue to benefit from preferential duty treatment;
 - Identifying potential savings opportunities based on the new rules of origin;
 - Assessing potential changes to internal activities related to the solicitation of certificates of origin, and origin qualification and certification; and
 - Establishing a roadmap to define and implement a future state USMCA operating model (i.e., updates to process flows, work instructions, training materials, etc.);
- Supporting the upgrade, implementation and maintenance of technology tools used to qualify goods;
- Supporting customs duty, origin, and value planning;
- Supporting HTS classification and origin determination under the new rules of origin;
- Providing solicitation services for certificates of origin from suppliers; and
- Preparing certifications of origin.

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