

Alert | International Trade



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USMCA, Successor to NAFTA, Goes Into Effect July 1, 2020

The United States-Mexico-Canada Agreement (USMCA) enters into force on July 1, 2020, replacing the North American Free Trade Agreement (NAFTA). For many, the changes under the USMCA will not have a noticeable effect on sourcing. For those in certain industries, such as automobiles or textiles, the changes will be noticeable and at times significant.

Importers and exporters should be aware of the following:

Rules of Origin

This is a good time for importers to review supply chains for USMCA eligibility. One noticeable change for those sourcing and trading goods between USMCA countries has been to the rules of origin. For many products the rule of origin under NAFTA and USMCA will remain the same. For others, the rule of origin will have changed significantly. For this reason, a case-by-case rules-of-origin analysis needs to be conducted to determine the applicability of the USMCA.

Notable changes to the rules of origin apply to automotive products, inorganic and organic chemicals, pharmaceutical products, textiles and apparel, electronics, and certain liquid crystal displays/assemblies.

In addition, importers, along with exporters and producers, are now able to complete Certificates of Origin. Importers are under an obligation to “exercise reasonable care” when submitting documentation

to U.S. Customs and Border Protection, including claiming eligibility for USMCA. In fact, a specific Certificate of Origin is no longer required (although importers have the option of continuing to use one); importers must maintain specific data elements in their files to support each shipment.

Also, the de minimis threshold for non-originating goods in USMCA has been raised to 10% from 7% under NAFTA.

USMCA has also eliminated the NAFTA country-of-origin marking rules. Country-of-origin marking will now be determined by the more generally used substantial transformation rules.

Digital Trade

USMCA significantly addresses digital trade and prohibits the imposition of import duties on electronically distributed products (e.g., software, video games, music, e-books). It also protects internet companies from liability for the content of their platforms. Additionally, USMCA prohibits Canada and Mexico from requiring U.S. companies operating in their countries to store their data on in-country servers.

Compliance with USMCA Provisions Going Forward

Other USMCA provisions with significant changes include labor, environmental protections, agricultural access, and investor-state dispute resolution.

Importers claiming USMCA for shipments into the United States, Mexico, or Canada should review their customs compliance programs, including tariff shift and regional value content calculations. In many instances the rule changes from NAFTA to USMCA are subtle and dependent on the nature of the goods in question. Companies may also wish to evaluate their sourcing strategies for any potential tariff savings as the new rules continue to be implemented.

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