

# Virtual Trade Week: United States-Mexico-Canada Agreement (USMCA)

## Frequently Asked Questions (FAQs)

### **Q. Have the rules around fungible goods and materials changed from The North American Free Trade Agreement (NAFTA) to USMCA? Article 406 NAFTA?**

Information included in entries should include information required by U.S. Customs and Border Protection (CBP) Form 7501, as well as any pertinent information required by the Appendix to 19 CFR 163. The largest change in USMCA will change from the NAFTA Certificate of Origin to the USMCA certification of origin. This change moves from the prior prescribed format to a more flexible format (provided that 9 key data elements are present).

- Click [here](#) for the comprehensive list for all relevant items for your transaction.
- A suggested template for the certification of origin, including all nine required data elements, can be found [here](#).

### **Q. Has there been an update on the U.S. side of updating post entry claims to refund the Merchandise Processing Fee (MPF), as well as the duty paid?**

Currently, 520Ds will not result in a refund of MPF. This would require legislative action beyond CBP's control. CBP does not have any updates related to this process but is committed to keeping all members of the trade informed, should updates occur.

### **Q. Will MPF be refundable in the future?**

Congress may consider a legislative remedy to provide a refund of MPF in conjunction with a 520D. At this time, CBP has no information as to whether it is being considered or the status of such a change.

### **Q. Can you speak to some of the changes for textile/apparel?**

**Rule of Origin (RoO) Exceptions** – features four (4) exceptions to the yarn-forward RoO: (1) cut-and-sew (single transformation); (2) U.S./ Mexico assembly; (3) short supply; and (4) tariff preference levels (TPL).

**De Minimis (Textiles)** – increases the de minimis allowance for non-originating inputs from 7% to 10% of the weight of non-originating fibers and yarns – of the 10%, elastomeric weight content may not exceed 7% of the weight of the component.

**Treatment of Sets** (New to USMCA) – textile and/or apparel goods put up in sets for retail sale and classified under the General Rules of Interpretation (GRI) 3 are originating if (1) each good

in the set is originating OR (2) total value of non-originating goods does not exceed 10% of the value of the set.

**Special Rules for Chapter 61-63 Products** (New to USMCA) – introduces special rules to determine whether a good originates related to visible linings, narrow elastic fabrics, sewing thread, pocket bag fabric, coated & laminated fabrics, and rayon fiber & rayon filaments.

**Q. What can licensed Customs Brokers do to help keep Importers and Exporters in compliant while following the new USMCA guidelines?**

CBP advises Customs brokers to discuss the various requirements of USMCA, including Chapter 5 of the Agreement and General Note 11 (Harmonized Tariff Schedule (HTS)). CBP also advises that both importers and brokers review the Certification of Origin for completeness prior to entry summary. Additional resources are available on [www.cbp.gov](http://www.cbp.gov). For exports and trade agreement compliance, the U.S. Government offers assistance via the [U.S. Department of Commerce Website](http://www.dhs.gov).

**Q. If an importer had a blanket NAFTA Certificate of Origin to cover the entire year, must it be replaced at this time with a USMCA C/O?**

All new claims now require the USMCA certification and importers should work to obtain this documentation. In order to provide the trade sufficient time to adjust to the new requirements and in consideration of the business process changes necessary to achieve full compliance, CBP may in appropriate cases, show restraint in enforcement during the six-month period after USMCA's entry-into-force. CBP will take into account the difficulties importers may face in complying with the new rules, as long as importers are making satisfactory progress toward compliance and are making a good faith effort to comply with the rules to the extent of their ability.

**Q. Under USMCA, can a U.S. good that qualifies for USMCA that is sent to Canada or Mexico, then returned without having anything done to it, get claimed using USMCA? Or does it still need to be cleared under U.S. Goods in Ch. 98?**

A good may qualify for both USMCA and U.S. Goods Returned (USGR), and may claim both concurrently. Remember both have different requirements and as such your firm should decide which is most applicable for you.

**Q. Can you please provide the link to the USMCA certificate of origin template on CBP's website?**

<https://www.cbp.gov/document/guidance/certification-origin-template>

**Q. What is the time frame to get a response on a new USMCA Binding Ruling?**

Generally, the National Commodity Specialist Division will issue all such rulings within 30 calendar days of the date of receipt. Some delay may occur if a laboratory report or consultation with another agency is required. Rulings that require referral to Headquarters, Regulations & Rulings (R&R), will be issued by mail within 90 days of receipt.

**Q. Will CBP or the U.S. Department of Labor (DOL) audit/verify Labor Value Content (LVC) requirements under the USMCA?**

Yes. In regards to USMCA claims for automotive imports, there will be joint verification by CBP and DOL.

**Q. Is Country of Origin (not origin criteria) required on the USMCA certification?**

Country of origin is not one of the data elements required for the certification of origin.

