



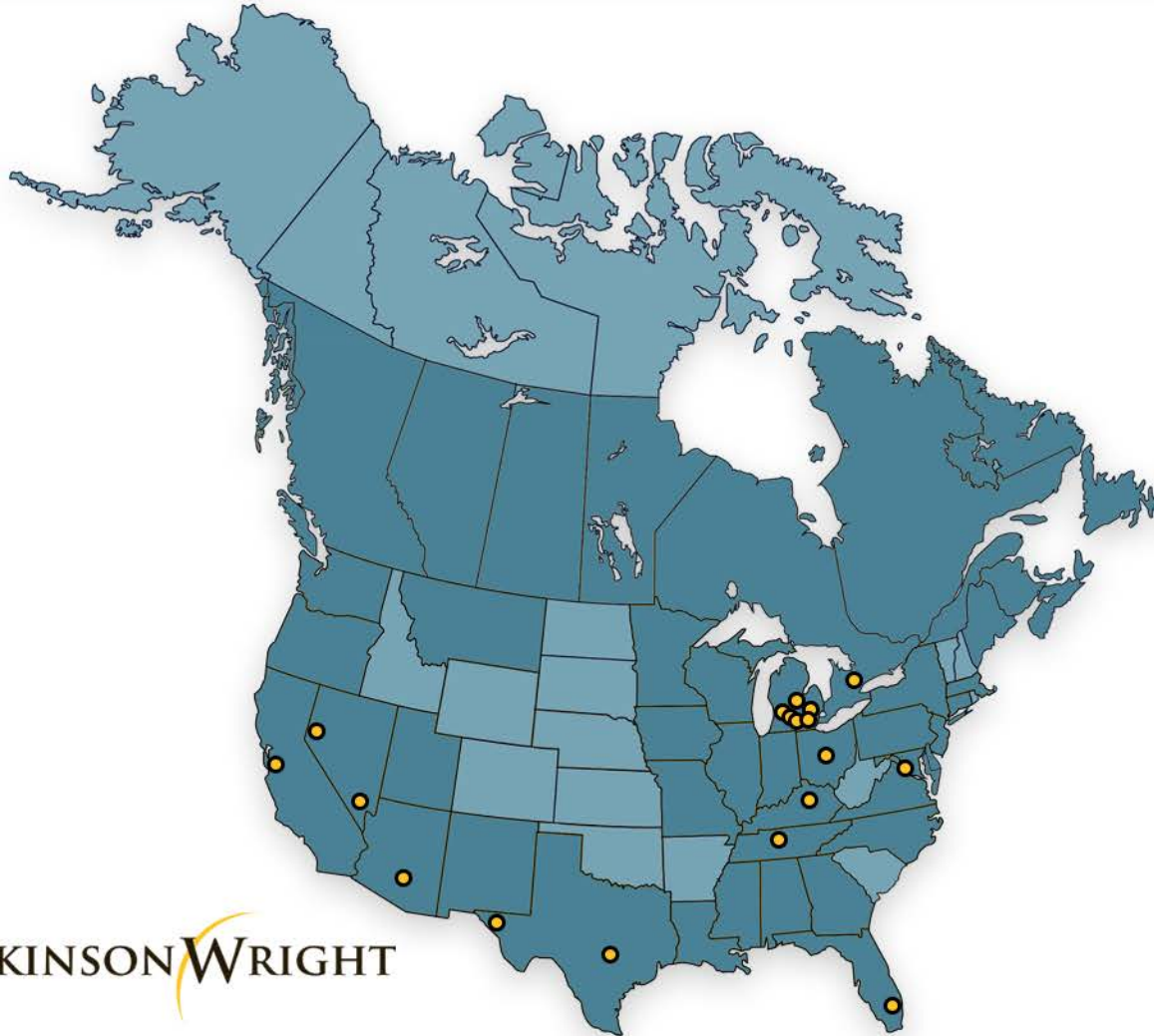
Preparing for USMCA Day

Episode II

DICKINSON  WRIGHT

DICKINSON WRIGHT OFFICE LOCATIONS

STATES AND PROVINCES BAR ADMISSIONS



DICKINSON WRIGHT LOCATIONS

- ANN ARBOR
- AUSTIN
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- FT. LAUDERDALE
- GRAND RAPIDS
- LEXINGTON
- LANSING
- LAS VEGAS
- NASHVILLE
- PHOENIX
- RENO
- SAGINAW
- SILICON VALLEY
- TORONTO
- TROY
- WASHINGTON D.C.

■ STATES AND PROVINCES
WHERE DICKINSON WRIGHT
HAS ATTORNEYS
ADMITTED TO THE BAR



AM LAW 200

In 2018, the American Lawyer magazine cited Dickinson Wright as the **fourth fastest growing law firm** on the Am Law 200 list, which is a ranking of U.S. law firms by the number of attorneys, profits per partner, and overall revenue. Dickinson Wright is currently ranked no. 128 on the Am Law 200.

www.law.com/americanlawyer



CORPORATE EQUALITY INDEX

For a third year in a row, Dickinson Wright received a **perfect score of 100** on the 2020 Corporate Equality Index, a national benchmarking and survey report on LGBTQ corporate policies and practices administered by the Human Rights Campaign Foundation. Our score reflects our commitment to LGBTQ workplace equality for tangible policies, benefits, and practices in addition to demonstrating our overall commitment to a diverse and inclusive culture for all of our lawyers and employees.

www.hrc.org



ISO CERTIFIED

Dickinson Wright is ISO 27001:2013 certified. ISO 27001:2013 is the international standard that describes the best practice for an information security management system. To be ISO 27001 accredited means that an independent, expert assessor has certified that we are following exemplary information security processes.

www.iso.org

An aerial photograph of a city, likely New York City, showing a dense urban landscape with a large body of water (likely the Hudson River) in the background. The image is used as a background for the text.

DICKINSON WRIGHT

USMCA
CUSMA
T-MEC

PARTNERS SLIDE



GEORGE W. BUSH
INSTITUTE



AMCHAM
CANADA
AMERICAN CHAMBER OF COMMERCE IN CANADA



CROSS-BORDER
INSTITUTE



GLOBAL
CHAMBER®

Ohio-Canada
Business Association



NASCO



COUNCIL OF THE
GREAT LAKES REGION
BUILDING OUR FUTURE TODAY
Discover. Connect. Influence.



CANADA - UNITED STATES
BUSINESS ASSOCIATION®



CAN/AM BORDER TRADE ALLIANCE



DICKINSON WRIGHT

Today's Speakers



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North American Strategy for Competitiveness

Beyond borders, Beyond politics

NASCO is the only tri-national membership organization focused on the competitiveness of the North American supply chains, environment, and skilled workforce.

NASCO is a *grass roots* tri-national coalition of governments, businesses and educational institutions driven by a common interest in collaboration along key freight and commercial trade networks.

Founded in 1994, NASCO encourages North America's competitiveness in the global marketplace.



NASCO Focus Areas

Supply Chain and Logistics

- North American Emergency Supply Chain Continuity
- Regulatory Cooperation / Harmonization
- Border Crossings – Canada, US and Mexico
- Innovation and Technology
- Freight Movement, Infrastructure and Multi-modal attention
- Department of Commerce ACSCC (USMCA Task Force and ITSC Subcommittee)
- New technologies and approaches to addressing environmental impacts resulting from trade across North America
- Climate change impact on supply chains and access to better air quality data
- Alternative Fuels Corridors - increased charging infrastructure

Closing the Skilled Workforce Gap

- Elevate public awareness and attention to the growing skills gap in Canada, the United States, and Mexico
- North American Workforce Initiative & Forum
- Convene stakeholders to identify ways to achieve more consistent quality across training and certification programs in North America
- Promote widespread use of a foundational career technical education curriculum and mutual recognition among North American certifying bodies – exchange and collaboration among certifiers and portability of credentials
- Apprenticeships



North American *Emergency* Supply Chain Continuity

Why NASCO?

- NASCO is rooted in hard work, love, mutual respect, and an understanding that not only our supply chains, but also our lives and livelihoods, are **integrated and connected** in ways most people cannot begin to imagine. Never has that been more apparent than now.
- We will use our vast, diverse network of members to partner with **industry, sub-national / federal governments and research institutions** to identify, develop and maintain the necessary stakeholders that **produce, warehouse and deliver** the key components and services necessary during emergencies - to reduce our dependence on overseas markets and ensure North Americans can get the help they need when they need it most – now and always.
- A patchwork of different strategies and implementation plans to fight the pandemic across our continent, coupled with competition for scarce supplies, is negligent and will result in lives lost.
- A unified approach to a North American EMERGENCY supply chain is more important than ever. We must act now to engage the proper stakeholders, and to develop and solidify a network of North American companies that can be quickly activated to manufacture, store and deliver vital products and services when time is of the essence.
- We cannot be caught off guard again, and we cannot rely on overseas countries to deliver time sensitive, lifesaving products in a fair, equitable and timely way.



North American *Emergency* Supply Chain Continuity

Facilitate the Solution

- A model for an effective emergency supply chain must include **raw materials, component parts, finished products, warehousing, delivery / logistics, and service providers.**
- Coordination at the federal, state/provincial, local, and industry levels is paramount.
- North American **regulatory compatibility** in key goods sectors, including medical devices and supplies
- Common definitions of “essential” businesses – including supply chain and services **supporting** the supply chain
- Incentivize greater production in North America and be able to **instantly surge capacity and reduce lead-time**
- Work in tandem with our members and many other like-minded associations, organizations and committees lending our support as a unified voice.
- We must ensure the incredible productive capacity of North America is quickly and efficiently retooled to provide the medical and protective equipment we so vitally need, as well as to protect the integrity of our distribution systems for food and other essential products.



80% of humanitarian spending is directed toward logistics, and as much as...



40% of that is waste.

The American Logistics Aid Network (ALAN) supports disaster survivors by leveraging the resources of the logistics and supply chain community.

For every \$1 donated to ALAN, \$72 in aid is delivered.





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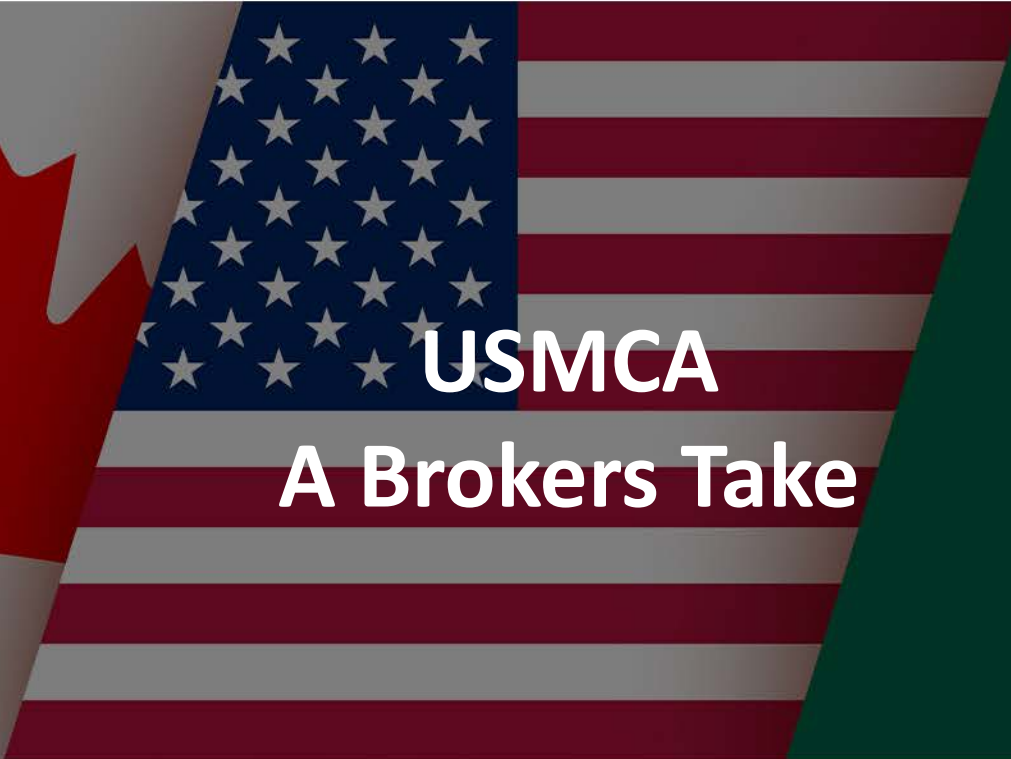
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USMCA A Brokers Take

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USMCA

A banner at the top of the slide features the flags of Canada, the United States, and Mexico. The Canadian flag is on the left, the US flag is in the center, and the Mexican flag is on the right. The word 'USMCA' is written in white, bold, sans-serif font over the Canadian flag.

- De minimis & Low Value Entry
- Trans-shipment
- SPI Change
- Unconditionally Duty Free
- Certification Requirements
- Record Keeping

De Minimis & Low Value Entry



Low Value Entry

- Canada
 - CAD \$150, but
CAD \$40 for GST
- United States
 - USD \$800
- Mexico
 - USD \$117, but
USD \$50 for taxes

De Minimis

- Good is considered originating if all non-originating materials are less than 10% of the cost
- HTS Chapters 1-27 + textiles & apparel have different de minimis rules

Trans-Shipment



Is allowed under the following circumstance only:

- Remains under customs control in the territory of a non-Party; and
- Does not undergo an operation outside the territories of the Parties other than: unloading; reloading; separation from a bulk shipment; storing; labeling or marking required by the importing party; or any other operation necessary to preserve it in good condition or to transport the good to the territory of the importing Party

Special Program Indicator (SPI) Change



USMCA SPI will be “S”

- Replacing the CA & MX SPIs



Merchandise Processing Fees (MPF) Exemption

- No MPF for originating goods
- If item is already duty-free (i.e., Free in HTSUS duty rate column 1)
 - No SPI of “S” will be listed, but an importer can claim the “S” provision to exempt the already duty-free product from MPF

Note that these claims are subject to the same certification and verification requirements as dutiable goods

Certificate of Origin Requirements (1-3 of 9)



1. Importer, Exporter, or Producer Certificate of Origin
2. Certifier
 - name, title, address (including country), phone & email
3. Exporter
 - Name, address (including country), phone & email
 - Only provide if different than the Certifier
 - Not required if completed by the producer & the exporter is unknown
 - Address shall be the place of export of the good in a Party's territory

Certificate of Origin Requirements (4-5 of 9)



4. Producer

- Name, address (including country), phone & email
- Only provide if different from certifier or exporter
- If multiple producers state “Various” or provide a list
- May maintain confidentiality with “Available upon request by the importing authorities”
- Address shall be the place of production of the good in a Party’s territory

5. Importer

- Name, address (including country), phone & email
- Address shall be in a Party’s territory

Certificate of Origin Requirements (6-8 of 9)



6. Description & HS Tariff Classification of the Good

- 6-digit level (XXXX.XX)
- Description should be sufficient to relate it to the good covered by certification

7. Origin Criteria

- Specify the origin criteria set out in Article 4.2

8. Blanket Period

- Include the period if the certificate covers multiple shipments

Certificate of Origin Requirements (9 of 9)



9. Authorized Signature & Date

- Must be signed and dated by the certifier & must be accompanied by the following statement:
- I certify that the goods described in this document qualify as originating and the information contained in this document are true and accurate. I assume responsibility for proving such representations and agree to maintain and present upon request or to make available during a verification visit, documentation necessary to support this certification.

Record Keeping Requirements (Importer)



5-years from date of entry for retention of:

- Records & supporting documentation related to the importation;
- All records and supporting documents related to the origin of the good (including any certifications & copies thereof); and
- Records and supporting documentation necessary to demonstrate compliance with the transit & transshipment provisions in Article 4.18 of the Agreement

Record Keeping Requirements (Certifier)



5-years from date of entry for retention of:

- All records and supporting documents related to the origin of the good (including any certifications & copies thereof), including records related to
 - » The purchase, cost, value, and shipping of , and payment for, the good;
 - » the purchase, cost, value, and shipping of , and payment for, all materials, including indirect materials, used in the production of the good; and
 - » the production of the good in the form in which it was exporter or the production of the material in the form in which it was sold.

Record Keeping Requirements (Vehicle Producer)



5-years from date of entry for retention of:

- Importer requirements (if importer);
- Certifier requirements; and
- Records related to
 - » Labor Value Content
 - » Steel & Aluminum Purchasing Requirements

Certificates of Origin



- This becomes critical as importers of record will need to investigate entire supply chain; particularly in autos and textiles.
- US-CBP is redefining substantial transformation in a series of recent rulings relating to 301.
- US-CBP also is revoking past decisions on Chapter 98 (repairs, alterations, returns) (e.g., wheel grinding).
- Effect is what was NAFTA may not be USMCA duty-free



USMCA – NO NAFTA MARKING RULES

NAFTA (19 CFR 134/102)

Applied in sequential order, the hierarchy established that the country of origin of a NAFTA good is the country in which:

- (a)(1) The good is wholly obtained or produced;
- (a)(2) The good is produced exclusively from domestic materials; or
- (a)(3) Each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in Section 102.20 and satisfies any other applicable requirements of that section, and all other applicable requirements of these rules are satisfied.

***BUT NOW SUBSTANTIAL TRANSFORMATION TEST – NEARLY 700
US-CBP Decisions Since Early 2018***

The title "USMCA – Chemical Products" is centered in white text over a background of the United States, Canadian, and Mexican flags. A large red maple leaf is on the left, the US flag is in the center, and the Mexican coat of arms is on the right.

USMCA – Chemical Products

The Dickinson Wright logo features the company name in a serif font, with a yellow swoosh underlining the word "WRIGHT".

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USMCA – Chemicals, Polymers, etc.

Chapters 28-32 Chemicals, Polymers, etc.

Eight new rules pursuant to which specific production processes that occur within the region are sufficient to confer origin (with some exceptions):

- (1) the Chemical Reaction Rule;
- (2) the Purification Rule;
- (3) the Mixtures and Blends Rule;
- (4) the Change in Particle Size Rule;
- (5) the Standards Materials Rule;
- (6) the Isomer Separation Rule;
- (7) the Separation Prohibition Rule; and
- (8) the Biotechnological Processes Rule.

The background of the slide features a stylized representation of the USMCA (United States-Mexico-Canada Agreement) flags. On the left is a red maple leaf, in the center is the United States flag, and on the right is the Mexican flag. The text "USMCA – Petroleum Products" is overlaid in white, bold, sans-serif font across the center of these flags.

USMCA – Petroleum Products

The logo for Dickinson Wright, featuring the company name in a serif font with a yellow swoosh element under the 'W' in Wright.

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This picture tells the story

Unprecedented Collapse Due to COVID-19

Crude oil prices collapsed in 2020 as demand disappeared due to the global economic shutdown. The price of the benchmark North American crude West Texas Intermediate fell dramatically as the industry was plagued with overproduction and the massive decline in demand. On April 20, the May contract for WTI futures fell below zero for the first time, the day before the contract expired.

NYMEX:CLK2020, D -15.85 ▼ -34.12 (-186.75%) O:17.73 H:17.85 L:-40.32 C:-15.85





USMCA – North American Petroleum Sector

North America's energy market and its vast reserves provide energy security for the region – an unimaginable prospect in 1994 when NAFTA came into force

- The US became an exporter of petroleum products after the 40 year export ban was lifted in 2015
- Mexico's oil reserves are among the largest in the world; new USMCA Chapter 8 explicitly recognizes Mexico's direct, inalienable and imprescriptible ownership of hydrocarbons
- Canada's upstream petroleum industry is the nation's largest private investor and a major source of export revenue; Alberta's oil sands alone hold one of the largest oil reserves in the world, after Venezuela and Saudi Arabia

USMCA – What's new in the rules of origin?

Extension of the Chemical Reaction Rule

- Under NAFTA, some tariff shift rules under Chapter 27 governing petroleum products were based on whether the good was the result of a chemical reaction
- The USMCA provides that any Chapter 27 product resulting from a chemical reaction will be originating if the reaction occurred in the territory of one or more of the parties, notwithstanding any product specific rules of origin
- This change will be relevant for many products that result from the processing and refining of crude oil



USMCA – What's new in the rules of origin?

Liquefied Natural Gas Returned to Gaseous State

- NAFTA treatment of Canadian natural gas was denied by CBP because of the theoretical possibility that non-NAFTA LNG under 2711.11 could be imported into the US, returned to a gaseous state and then transported on a north flowing pipeline and commingled in the Canadian pipeline system with natural gas in a gaseous state under 2711.21
- NAFTA's rule of origin does not permit a tariff shift from LNG under 2711.11 to gaseous natural gas under 2711.21; the USMCA reverses that, treating LNG converted to a gaseous state as originating for purposes of the USMCA.

USMCA – What's new in the rules of origin?

Limited Volume of Non-Originating Diluent Will Be Disregarded

- Heavy crude oil under 2709 that is produced from bituminous minerals such as Canadian oil sands must be thinned with lighter grade petroleum products known as diluent to qualify for transport on pipeline systems
- Diluent is often drawn from pools that are collected from many sources and often without NAFTA origin certificates, negating NAFTA qualification for the crude/diluent blend
- The USMCA disregards diluent used to facilitate transport provided it is no more than 40% of the blend's total volume



USMCA – Textiles and Textile Apparel



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USMCA – Textiles and Textile Apparel



First, the basic steps in textile and apparel production

- Growth of natural material, such as cotton and wool, and extrusion of man-made materials and formation into a fiber
- Fibers are spun or twisted into yarns
- Yarns are woven or knitted into fabrics
- Fabrics are cut and sewn to make garments or other textile articles

USMCA – Textiles and Textile Apparel



Rules of origin track the production process

- “Fiber forward” rules require that the article’s fiber be formed and later processes occur in a USMCA country
- “Yarn forward” rules require that the article’s yarn be formed and later processes occur in a USMCA country
- “Fabric forward” rules require the that article’s fabric be formed and later processes occur in a USMCA country
- “Cut and sewn” rules require only that the cutting and sewing of the article occur in a USMCA country

USMCA – Textiles and Textile Apparel



But there are many twists and turns and exceptions

- Apparel may be composed of many components – outer fabric shells, linings, pockets, collars, cuffs, trim, buttons, snaps, zippers, elastic, etc.
- Generally finished goods follow the “yarn forward” rule
- Tariff shift rules generally apply only to the component that determines the tariff classification of the article
- Under the USMCA, the *de minimis* threshold is increased from 7% under NAFTA to allow non-originating content of up to 10% of total weight (7% for elastomeric content)

USMCA – Textiles and Textile Apparel



More twists, turns and exceptions

- Under NAFTA, for a garment with a visible lining to qualify as originating, both the component that determined the classification and the visible lining had to satisfy applicable tariff shift requirements; this so-called “visible lining rule” has been eliminated under the USMCA
- In the case of textiles and apparel put up as sets for retail sale, the USMCA requires that each of the articles in the 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
- Under the USMCA, rayon fiber and filament, other than lyocell and acetate, may be of any origin

USMCA – Textiles and Textile Apparel



More twists, turns and exceptions

- Other changes under the USMCA require that:
 - 12 months after the USMCA enters into force, certain sewing thread must be formed and finished in a USMCA country;
 - 18 months after the USMCA enters into force:
 - if articles contain a narrow elastic fabric, it must be formed and finished from yarn in a USMCA country;
 - if articles contain a pocket bag, the fabric must be formed and finished from yarn wholly formed in a USMCA country; and
 - if textile articles include a 5903 coated or laminated fabric, it must be formed and finished in a USMCA country

USMCA – Textiles and Textile Apparel



And even more twists, turns and exceptions

- Fibers, yarns and fabrics determined not to be available in commercial quantities and in a timely manner may be non-originating (e.g., Harris Tweed) if cut and sewn in a USMCA country
- Tariff Preference Levels (TPLs) provide duty-free access for specified quantities of non-originating yarns, fabrics, apparel and made-up textile articles that undergo significant processing in a USMCA country
- The Mexico Special Regime under 9802.00.9000 provides for duty-free and MPF-free treatment of goods assembled in Mexico from fabric that was wholly formed in the U.S. and cut into components in the U.S. ready for assembly and not advanced in value in Mexico except for assembly and some post-assembly processes such as bleaching, dyeing or stone washing



USMCA – Electronics

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Certain Electronics/Monitors

NAFTA Rule of Origin –

8528.10 (and 9 related parts)

A change to subheading 8528.10 from Canadian tariff item 8528.10.11, 8528.10.12, 8528.10.18 or 8528.10.19, U.S. tariff item 8528.10.60A or Mexican tariff item 8528.10.07 or 8528.10.14, or any other heading, provided there is a regional value content of not less than:

- (a) 60 percent where the transaction value method is used, or
- (b) 50 percent where the net cost method is used.



Certain Electronics/Monitors

NAFTA Rule of Origin –

8528.20

A change to subheading 8528.20 from any other heading, provided that, with respect to printed circuit assemblies (PCAs) of Canadian tariff item 8529.90.11, 8529.90.12, 8529.90.13, 8529.90.14, 8529.90.38 or 8529.90.39, U.S. tariff item 8529.90.10, 8529.90.15A, 8529.90.15C, 8529.90.20A, 8529.90.20C, 8529.90.30A, 8529.90.35A, 8529.90.35C, 8529.90.40A, 8529.90.40B, 8529.90.45A or 8529.90.50A or Mexican tariff item 8529.90.16 or 8529.90.18:

(a) except as provided in subparagraph (b), for each multiple of nine PCAs, or any portion thereof, that is contained in the good, only one PCA may be a non-originating PCA, and

(b) if the good contains less than three PCAs, all of the PCAs must be originating PCAs.



The USMCA WAY

But under USMCA:

85.28

A Change to Heading 85.28 from any other heading; or

No required change in tariff classification to heading 85.28, provided there is a regional value content of not less than:

- (a) 60 percent where the transaction value method is used; or
- (b) 50 percent where the net cost method is used.

But 85.37 Remains Narrow!



**USMCA – A Look Forward through a
Rearview Mirror**

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Automotive Components with Electric Motors

How would this product be treated under the USMCA?

Automotive Side View Mirror Assembly for a Passenger Vehicle

- Assembled in Mexico from these parts: Plastic enclosure, plastic plate for attachment of mirror, clutches, gears and shafts, electrical wiring and other parts (all of Mexican origin; 85% - 95% of total value) and two electric motors with output under 18.65W (Chinese origin 5% - 15% of total value)
- Finished mirror assembly is exported to the USA where the mirror will be attached



Automotive Components with Electric Motors

USMCA Rule of Origin – Tariff Shift Required for Non-Originating Motors

Potential tariff classification of finished assembly:

8708.29.50 Parts and accessories of the motor vehicles of headings 8701 to 8705:
Other parts and accessories of bodies (including cabs): Other

(US Duty: 2.5%)

Tariff classification of motor:

8501.10.40 Electric motors and generators (excluding generating sets): Motors of an
output not exceeding 37.5 W: Of under 18.65 W: Other

(US Duty: 4.4%)



Automotive Components with Electric Motors

Specific Rule of Origin for 8708.29.50

Under NAFTA and USMCA (Article 4-B.2): (A) A change to subheading 8708.29 from any other heading; or (B) No required change in tariff classification to subheading 8708.29, provided there is a regional value content [RVC] of not less than 50 percent under the net cost method.

But under USMCA: If the part is for use in a passenger vehicle or light truck, the required RVC is 62.5% percent under the net cost method or 72.5% under the transaction value method, increasing in each of the first three years of the agreement.

After year 3, the required RVC will be 70% percent under the net cost method or 80% under the transaction value method.

Automotive Components with Electric Motors

Looks good so far, but there is another problem:

In its rulings, US Customs and Border Protection (CBP) has held that similar side view mirror assemblies are classified under 8501.10.40, not 8708.29.50

– *Why?*

- The assembly in this form is a composite good with components that perform complementary functions
- It is therefore classifiable as if consisting only of the motors - the component that performs its principal function (Section XVI, Note 3) or that gives it its essential character (GRI 3(b))
- Also, Section XVII, Note 2(f) precludes a “parts” classification under Chapter 87 for electrical machinery or equipment under Chapter 85



Automotive Components with Electric Motors

As a result, the assembly does not qualify as originating --

- The side view mirror assembly is classified in the same classification as the non-originating motors - 8501.10.40
- Under the USMCA, the specific rule of origin for goods of 8501 is “ A change to heading 85.01 from any other heading, except from tariff item 8503.00.aa ..”
- Because the non-originating motors do not satisfy this requirement, the mirror assembly does not qualify as an eligible originating good under the USMCA and will be subject to a US duty of 4.4%

Note that CBP has applied the same 8501 classification analysis to other products with electric motors, such as windshield wiper assemblies imported without wiper arms or blades and electric actuators used in HVAC systems

Automotive Components with Electric Motors

But there are some alternatives to avoid this result:

- Use the De Minimis Rule – Under this rule, a good is originating if the value of non-originating materials that do not undergo a required tariff shift does not exceed 10% of either the transaction value or total cost of the good (subject to some exceptions not applicable to goods of 8501.10.40)
- Attach an originating mirror in Mexico -- The assembly would then be classified under 7009.10.00 – Glass mirrors, whether or not framed, including rear-view mirrors: Rear-view mirrors for vehicles (US duty 3.9%)

The motors would satisfy the specific rule of origin - “ A change to subheading 7009.10 ... from any other heading ...” Therefore, in that form, the assembly would qualify as an originating good under the USMCA



Automotive Components with Electric Motors

But there is a caveat – China Section 301 Duties:

- Goods of Chinese origin, classified as electric motors under 8501.10.40 or as glass mirrors under 7009.10.00, are subject to an additional Section 301 duty of 25%
- CBP has observed that, while the NAFTA Marking Rules are applicable for purposes of country of origin marking (and will continue to be used for that purpose under the USMCA), the general substantial transformation test is applicable to determine origin for purposes of Section 301 duties
- The courts and CBP have found that assemblies that do not cause the parts to lose their separate identities do not result in a “substantial transformation”
- Query whether our mirror assembly has Chinese or Mexican origin?



USMCA AUTO RULES OF ORIGIN: CHALLENGES AND SOLUTIONS

ERIC MILLER

President, Rideau Potomac Strategy Group
Co-Founder, Origin Experts Group

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Auto Rules of Origin

Rules of origin reflect the production structure and political preoccupations of their times

Autos are the most “North American” of products: integrated supply chain across the United States, Canada and Mexico. Very valuable.

U.S.-Canada Auto Pact: Forerunner of NAFTA.

Canada-U.S. FTA and the “Honda Case”: the challenge of roll-up.

- Product specific rules ran a mere 17 pages

NAFTA – the great reaction. Tracing list. Uniform regulations. Lots of complexity.

The banner features the flags of Canada (a red maple leaf), the United States (stars and stripes), and Mexico (an eagle on a cactus).

USMCA Auto Rules of Origin Objectives

Objective 1: To increase the North American value content of vehicles qualifying as originating in North America.

- NAFTA required 62.5% value content. Due to nuances in the rules, the actual content required was often lower. USMCA aims to fix this.

Objective 2: To support the North American steel and aluminum industries through a specific mandate.

- Part of the U.S. push to aid its steel industry. 70% purchase requirement.

Objective 3: To incent production/sourcing in the United States and Canada through the introduction of labor value content requirements.

- Offset Mexico's cost advantages

Outlook



USMCA comes into force on July 1.

Auto industry is not ready. Some chatter about a grace period for applying rules of origin.

Uniform regulations are necessary to drive uniformity and consistency of application. Not ready thus far for autos. CBP has issued Interim Implementation Instructions. Not final.

CBP is setting up a USMCA Center of Excellence to assist the trade. Its Auto Center of Excellence in Detroit will continue to function.

The Automotive Sector

1

Free trade for autos and pick ups complying with the rule of origin



2

Insurance vs. an increase on U.S. MFN tariffs



3

Insurance vs. 232





Insurance vs. An Increase on U.S. MFN Tariffs

In case the U.S. increases its MNF rate, the U.S. shall grant to Mexico:

Vehicles

- A yearly quota up to 1,600,000 units
- 2.5% duty rate
- Complying with a 62.5% RVC (no tracing, with averages, and lower RVC for new plants)

Auto parts

- Up to \$108 billions dollars a year
- MFN in force as of August 1st, 2018
- Complying with a RVC of 50% under net cost methodology or 60% under transaction cost methodology, or a heading jump

Avoids impact from U.S. tariff strategy shifts vs. rest of the world

The automotive sector: Insurance vs 232

Exception for Mexican autos & auto parts in case the U.S. decides to implement 232 measures vs. cars

- Takes into account current export capacity and plants to launch production:
 - Autos: 2.6 million units a year
 - Auto parts: \$ 108 billions a year





The New Rule of Origin (ROO) for autos and pick ups

Four requirements:

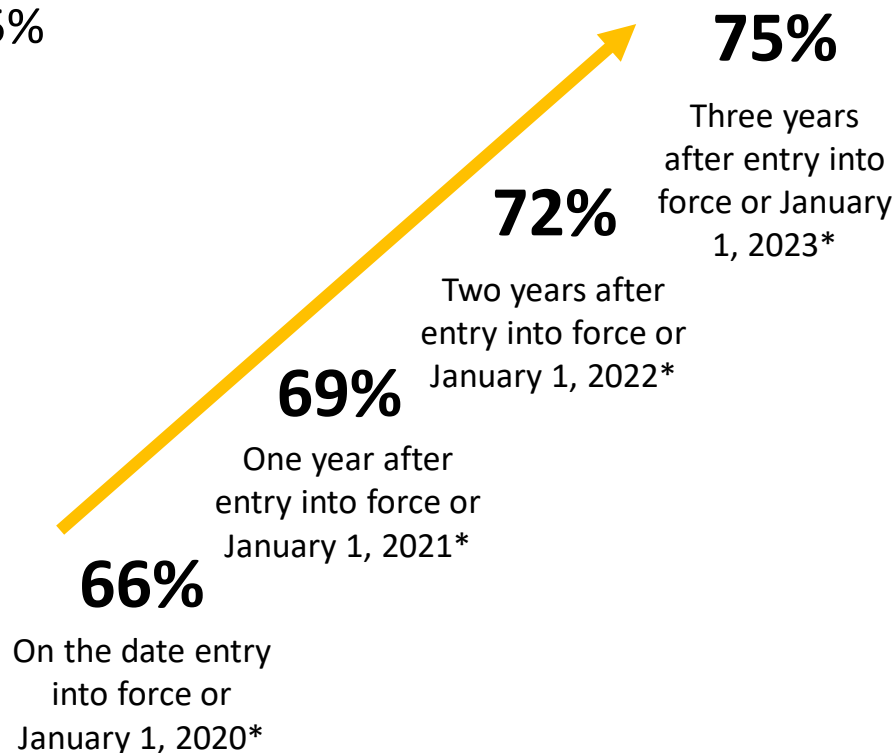
1. Regional Value Content percentage (RVC)
2. Originating Core parts for passenger vehicles and light trucks
3. Labor Value Content percentage (LVC)
4. Originating purchases of Steel and Aluminum

NAFTA rules:

- RVC and
- Tracing

Regional Value Content Percentage (RVC)

- A. The **RVC** increases from 62.5% to 75%
- B. Four year transition period
- C. Maintains Net Cost methodology
- D. Eliminates tracing
- E. Eliminates “Deeming Originating”
- F. Allows “averaging” as in NAFTA



ROO for the Automotive Sector

Light Vehicles

Labor Value Content (LVC)

40% cars (4 increases) / 45% pick-ups (EIF)

Average hourly base wage rate $\geq \$16/\text{hour}$

Material and manufacturing expenditures $\geq 25\%$ cars / $\geq 30\%$ pick-ups

Technology and assembly expenditures^{1/} $\leq 15\%$ cars and pick-ups

Steel and Aluminum

$\geq 70\%$ vehicle producer's purchases must be originating



Regional Value Content (RVC)

75% / Net Cost
4 increases

66% 69% 72% 75%

Core Parts* RVC / Net Cost / 4 increases

66% 69% 72% 75%

Engine, transmission, body and chassis, axle, suspension system, steering system, and advanced battery

* 7/7 must be originating

Heavy Vehicles

Labor Value Content (LVC)

45% (EIF)

Average hourly base wage rate $\geq \$16/\text{hour}$

Material and manufacturing expenditures $\geq 30\%$

Technology and assembly expenditures^{2/} $\leq 15\%$

Steel and Aluminum

$\geq 70\%$ vehicle producer's purchases must be originating



Regional Value Content (RVC)

70% / Net Cost /
3 increases 7 years

60% 64% 70%

1/ Technology expenditures include R&D and IT expenditures related to prototype development, design, engineering, testing, or certifying operations; software development, technology integration, vehicle communications, and information technology support operations. Assembly expenditure includes engine assembly, transmission assembly (PC of 100,000 OG) or an advanced battery assembly plant (PC of 25,000 OG)

2/ Technology expenditures include R&D and IT expenditures related to prototype development, design, engineering, testing, or certifying operations; software development, technology integration, vehicle communications, and information technology support operations. Assembly expenditure includes engine assembly, transmission assembly or an advanced battery assembly plant (PC of 20,000 OG)

ROO for Autoparts

Other Vehicles
Current ROO



Heavy Vehicles			
Net Cost / 3 increases 7 years			
Principals		Complementary	
60%	64%	50%	54%
70%		60%	

Light Vehicles								
Net Cost / 4 increases								
Core*			Principals			Complementary		
66%	69%	72%	62.5%	65%	67.5%	62%	63%	64%
	75%		70%			65%		

* 7/7 must be originating

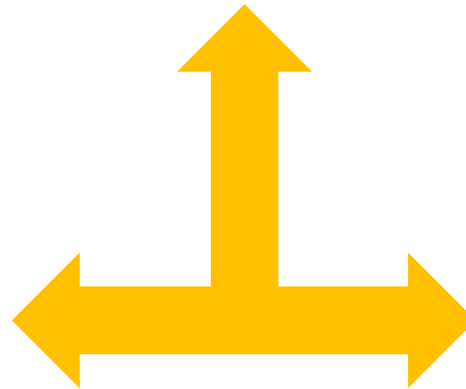
Super Core
Key Parts (Table A.1)

Criteria assisting to comply with origin requirements

De minimis

Tolerance rule that excludes a minimum percentage of certain non-originating materials from the origin requirements

if the value of all NOM used in the production of the good that do not undergo a CTC is not more than 10 % of the TV or TC of the final good

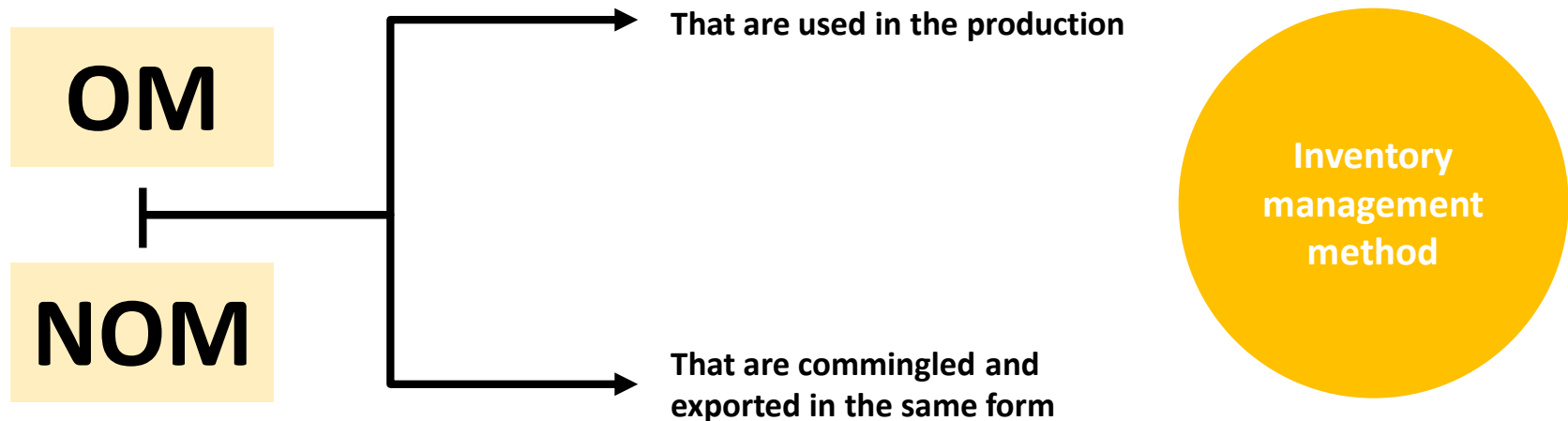


For a good subject to a RVC if the value of all non-originating materials used in the production of the good is not more than 10 % of the TV or TC of the final good

Criteria assisting to comply with origin requirements

*Fungible
Material*

Goods or materials that are interchangeable for commercial purposes and the properties of which are essentially



Criteria assisting to comply with origin requirements

Intermediate Material

Material that is self-produced and used in the production of a good, and designated as such by the producer



NOMs contained in such material are not taken into account for the purpose of qualification and determination of origin



40.16



4016.99 CSH plus RVC 50%

Rubber shock absorber dampers



8708.80 RVC 75%

shock absorber

Criteria que auxilian para cumplir requisitos de origen

Indirect Material

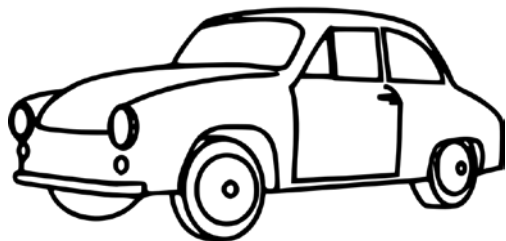
Material used in the production, testing, or inspection of a good but not physically incorporated into the good.



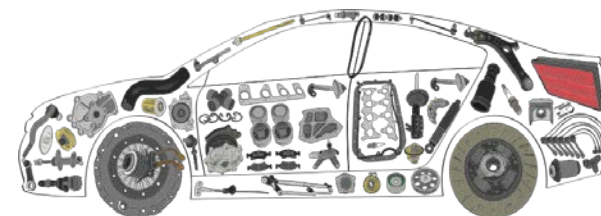
It is considered as originating regardless the country of production.

- a) fuel and energy;
- b) tools, dies, and molds;
- c) spare parts and materials used in the maintenance of equipment and buildings;
- d) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment and buildings;
- e) gloves, glasses, footwear, clothing, safety equipment, and supplies;
- f) equipment, devices, and supplies used for testing or inspecting the goods;
- g) catalysts and solvents; and
- h) any other material that is not incorporated into the good

Criteria que auxilian para cumplir requisitos de origen



Averaging



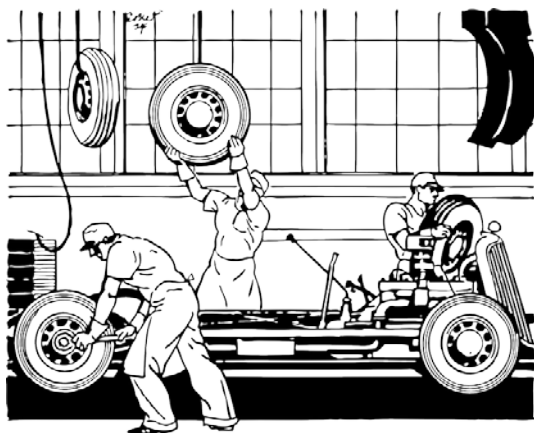
Over the producer's fiscal year

- a) the same model line, in the same class of vehicles produced in the same plant;
- b) the same class of motor vehicles produced in the same plant;
- c) the same model line or same class of motor vehicles

Produced in the same plant

- a) over the fiscal year of the motor vehicle producer to whom the good is sold;
- b) over any quarter or month;
- c) over the fiscal year of the producer; or
- d) over any of the categories apply for the vehicle producer, provided that the average is calculated separately for (i) the goods sold to the motor vehicle producer, or (ii) for those goods that are exported to the territory of another Party.

Averaging



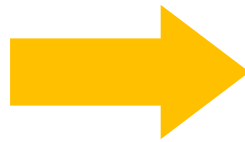
Periods

- a) the same model line of vehicles in the same class of vehicles produced in the same plant
- b) the same class of vehicles produced in the same plant
- c) the same model line of vehicles or same class of vehicles
- d) all vehicles produced in one or more plants

- a) the previous fiscal year of the producer;
- b) the previous calendar year;
- c) the quarter or month to date in which the vehicle is produced or exported;
- d) the producer's fiscal year to date in which the vehicle is produced or exported; or
- e) the calendar year to date in which the vehicle is produced or exported.



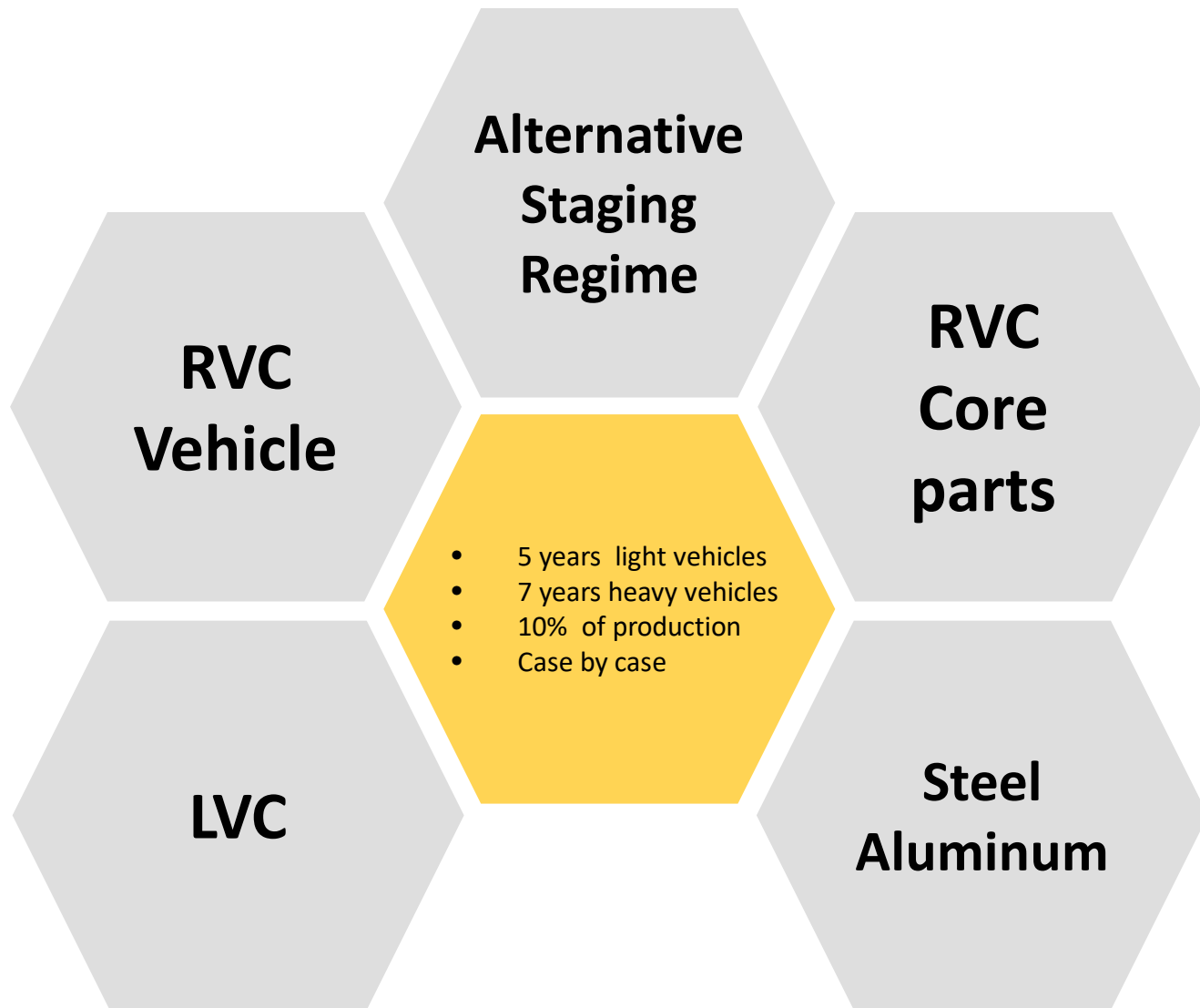
**For Steel and Aluminum,
the producer may calculate
the purchases:**



- **over the previous fiscal year of the producer;**
- **over the previous calendar year;**
- **over the quarter or month to date in which the vehicle is exported;**
- **over the producer’s fiscal year to date in which the vehicle is exported; or**
- **over the calendar year to date in which the vehicle is exported**

Purchases include:

- direct purchases,
- purchases through a services center,
- purchases contracted through a supplier,
- purchases for major stampings that form the “body in white” or chassis frame



USTR Publication on April 21st, 2020

Procedures for the Submission of Petitions by North American Producers of Passenger Vehicles or Light Trucks to Use the Alternative Staging Regime for the USMCA Rules of Origin for Automotive Goods.

Mexico. Ministry of the Economy Publication on April 30th, 2020

Agreement Acquainting North American Producers of Passenger Vehicles or Light Trucks the Procedures for the Submission of Petitions to Use the Alternative Staging Regime established in the Appendix 4-B to Chapter 4 of the United States-Mexico-Canada Agreement.

Main Differences



- Requirements for vehicles under current 403.6
- Information required in Petition for Steel and Aluminum



Managing Origin

Contemporary rules of origin combine tariff-shift, value, and processing requirements in different ways across different products. They are exceedingly complex to manage.

Origin Experts Group (www.originexpertsgroup.com) is a new trade technology company that aims to tackle this problem. It pairs 3CE, a proven AI-enabled Harmonized System classification tool, with the Origin Advisor, our automated tool for determining and managing origin.

Origin Experts proprietary rule-coding methodology enables automated evaluation of preferential origin compliance.

USMCA marks a major change in North America's rules of origin. We look forward to discussing how our tools can assist you.



Thank You

DICKINSON  WRIGHT



Episode III

AT THE BORDER: Customs and Trade Facilitation & Immigration

Thursday, May 28, 2020

4:00-5:30 PM ET

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