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# United States-Mexico-Canada Agreement: Operating under the New Trilateral Framework

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# United States-Mexico-Canada Agreement (USMCA)





# United States-Mexico-Canada Agreement: Operating Under the New Trilateral Framework

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# Transition from NAFTA to USMCA

- A. The USMCA (T-MEC in Mexico and CUSMA in Canada) took effect July 1, 2020 after more than a two-year negotiating process.
- Culminated in the December 10, 2019 Protocol that refined provisions on labor rights, intellectual property and other issues.
- B. The good news is that the vast majority of meaningful NAFTA rules remain intact:
- Duty free treatment of North American goods,
  - Non-discrimination (National Treatment),
  - Reciprocal preferential status (Most Favored Nation), and
  - Transparency requirements.





## Transition from NAFTA to USMCA (*Cont'd*)

- C. The changes are largely updates and additions to what was already a fairly comprehensive international trade agreement.
- New chapters on digital trade, small and medium business, energy and a form of “sunset clause” seek to bring the USMCA into accord with current trade and investment conditions.



# National Treatment and Market Access

- A. Again, the good news is that NAFTA duty free market access is maintained in the USMCA, and that the parties agreed not to discriminate against companies from other USMCA parties and to treat them as if they were their own nationals.
- B. Some Canadian originating goods imported to Mexico are excluded from the “zero” duty rate and will instead be subject to the GATT/WTO Most Favorable Nation rate.
- C. To the chagrin of U.S. interests, Mexico and the U.S. failed to reach an agreement on seasonal agricultural products. Now, agricultural committees will consult in the future.
- D. NAFTA textiles provisions were modified for certain types of garments and categories, with some significant changes, but no wholesale “regressions” occurred.



# USMCA Summary of Changes

- A. **National treatment and market access** - Some Canadian originating goods such as dairy products, chicken legs and thighs, sugar and sweeteners imported to Mexico are excluded from the “zero” duty rate and will instead be subject to the GATT/WTO Most Favorable Nation rate.
- B. **Rules of origin** – Major changes in the rules of origin regarding textile, apparel, automotive and auto parts industries now apply, including an increase in the *de minimis* threshold from 7% to 10% for non-originating components and materials.
- C. **Automotive industry** – Regional Value Content was increased. Three new elements must now be met to be considered as originating:
  - Labor Value Content,
  - Steel and Aluminum minimum purchases ,and
  - Originating core parts.



## USMCA Summary of Changes (Cont'd)

- D. **Certificates of origin** – The USMCA eliminates the use of a prescribed format.
  - Certifiers must include minimum data elements in the invoice or any other document.
- E. **Digital trade** – The USMCA prohibits duties and fees in connection with the importation or exportation of digital products transmitted electronically from one country to another.
  - It also encourages the recognition of electronic signatures and the use of electronic authentication.
- F. **Intellectual Property** – The USMCA extends the minimum copyright terms and includes more stringent standards prohibiting parties from circumventing measures enacted to protect technology and intellectual property.



## USMCA Summary of Changes (Cont'd)

**G. Labor** – The USMCA strengthens labor provisions, introduces dispute settlement procedures and requires each Party to adopt and maintain laws on core worker rights.

- Mexico's labor law compliance will be monitored and allows filing a complaint with the United States or Canadian governments if a "Covered Facility" in Mexico is violating Mexico's labor laws.

**H. Dispute Settlement** – The NAFTA's procedures were kept intact with minor changes.

- The USMCA eliminates investor-state dispute resolution between the U.S. and Canada, but such system was retained for certain investor-state disputes between the U.S. and Mexico.



## USMCA Summary of Changes (Cont'd)

- I. **Sunset clause** – The USMCA will remain in effect for a 16-year period, which will be subject to review every six years, after which the Parties may agree to extend the termination date into the future.

# USMCA CHAPTER 25- Small and Medium Sized Enterprises (SMEs)

## *Cooperation to Increase Trade and Investment Opportunities for SMEs*

With a view to more robust cooperation between the Parties to enhance commercial opportunities for SMEs, and among other efforts, in the context of Memoranda of Understanding that exist between Parties on SME cooperation, each Party shall seek to increase trade and investment opportunities.

### Corporate Membership



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# USMCA CHAPTER 25- Small and Medium Sized Enterprises (SMEs)

## Article 25.2

- (a) promote cooperation between the Parties' small business support infrastructure, including dedicated SME centers, incubators and accelerators, export assistance centers, and other centers as appropriate, to create an international network for sharing best practices, exchanging market research, and promoting SME participation in international trade, as well as business growth in local markets;
- (b) strengthen its collaboration with the other Parties on activities to promote SMEs owned by under-represented groups, including women, indigenous peoples, youth and minorities, as well as start-ups, agricultural and rural SMEs, and promote partnership among these SMEs and their participation in international trade;
- (c) enhance its cooperation with the other Parties to exchange information and best practices in areas including improving SME access to capital and credit, SME participation in covered government procurement opportunities, and helping SMEs adapt to changing market conditions; and



# USMCA CHAPTER 25 - Small and Medium Sized Enterprises (SMEs) (Cont'd)

- Minority owned businesses are comprising a larger portion of the small business sector.
- The 2017 Supplier Diversity Study from The Hackett Group found that companies who dedicate 20% or more of their spend to diverse suppliers can attribute as much as 15% of their annual sales to supplier diversity programs.



## Mission and Vision

### *Mission Statement*

To create opportunities and an environment for minority business enterprises to grow, and to actively add value for corporate members through positive business relationships.

### *Vision Statement*

A best-in-class organization with financial strength, the respect and engagement of stakeholders, leadership, and program excellence.



# Important Considerations Prior to Importation

- Know the identity of the exporter sending the product.
- Know the type of product being imported (**tariff classification**).
- Know the value of the product.
- Verify that the product has all **supporting documentation** for its importation.
- Determine means of transport.
- Communicate with the customs broker.
- Verify whether it is possible to obtain the **benefits of free trade agreements**.
- Verify that importation of the goods is not prohibited or restricted in the country.
- Verify the customshouse through which the goods will be imported and whether such is authorized for such progress.
- Determine the applicable customs regime for importation of the goods/equipment.
- Verify whether prior importation permits or official norms are required.



# Important Considerations Prior to Importation (*Cont'd*)

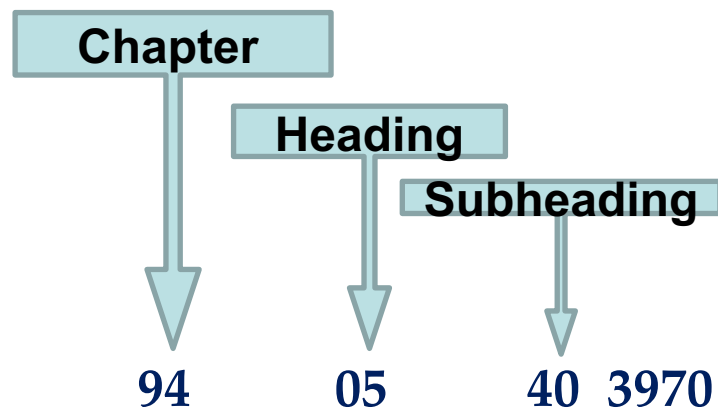
- The Harmonized Commodity Description and Coding System generally referred to as "Harmonized System" or simply "HS" is a multipurpose international product nomenclature developed by the World Customs Organization (WCO).
- It comprises about 5,000 commodity groups; each identified by a six digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification.
- The system is used by more than 200 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98 % of the merchandise in international trade is classified in terms of the HS.
- The HS contributes to the harmonization of Customs and trade procedures, and the non-documentary trade data interchange in connection with such procedures, thus reducing the costs related to international trade.

\*Source: <http://www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx>

Also see: [https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/icp017r2\\_3\\_0.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/icp017r2_3_0.pdf)

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# Important Considerations Prior to Importation (*Cont'd*)



Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included.



## Important Considerations Prior to Importation (*Cont'd*)

- Even with the Harmonized Tariff System (HTS), there are variations between the official tariff schedules of each country.
- At the HTS subheading level (first 6-digits) they are all the same; however, most governments include additional digits to further distinguish products in certain categories, and such additional digits are typically different in every country. Using the same number in a different jurisdiction may affect classification compliance at destination.
- In Mexico, the official tariff classification consists of an 8-digit code which is called a “*fracción arancelaria*” or Mexican tariff code.



# Important Considerations Prior to Importation (*Cont'd*)

- Limiting the code to the HTS 6-digit subheading would be insufficient in Mexico *EXCEPT* for the USMCA Certificate of Origin where such can only contain 6-digits.
- Description must be precise.





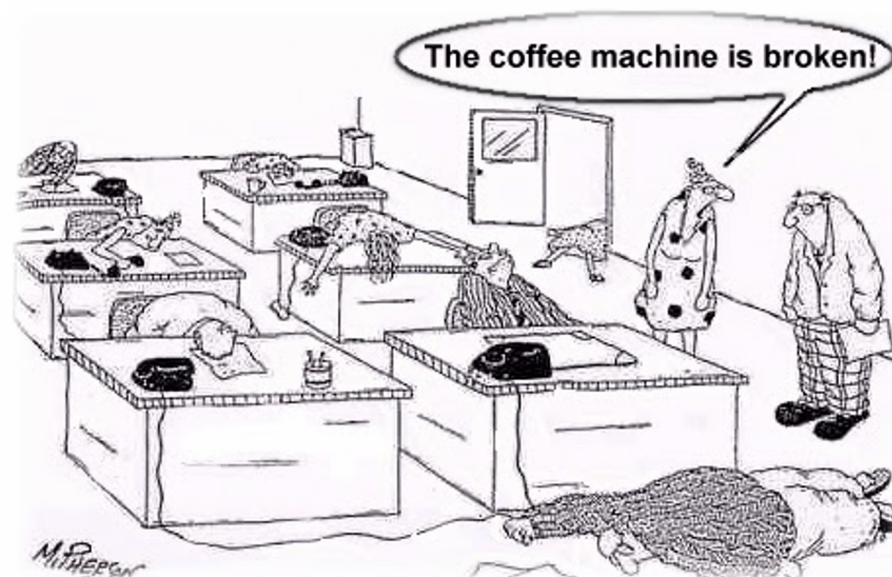
# Mexico Tariff Classification

Electronic Thermometers	Thermographic Cameras (CCTV)
9025.19.03 - EX	8525.80.03 - EX
Including Thermographic Cameras with human temperature measurement function?	Without human temperature measurement function?
Intended Use: Medical Equipment?	Intended Use: Non-Medical?
Import Permit & Sanitary Registration	No non-tariff measures apply
Exceptions to Import Permit?	Potential infringement of sanitary regulations
Import vs. commercialization requirements	Import vs. commercialization requirements
Foreign treatment & registrations	Foreign treatment & registrations





## 5 MINUTE COFFEE BREAK



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# General Rules of Origin

- A. The general manner of determining whether goods are considered as originating in North America, based on the calculation of North American content, and thus accessing USMCA benefits, remains the same as the NAFTA.
- B. However, significant changes in the rules of origin regarding automotive, auto parts, and textile goods now apply.
- C. An important positive change allows USMCA parties to increase the *de minimis content* threshold of non-North American inputs from NAFTA's 7% to 10% under the USMCA.
- D. For remanufacturing, each party may treat recovered materials derived from the territory of another party as original when used in the production of and incorporated into a remanufactured good.

**OPPORTUNITIES FOR MINORITY BUSINESS ENTERPRISES:**  
Strategic Sourcing



# Rules of Origin

A Good is USMCA  
Originating if it is:

a. Wholly Obtained or Produced Goods  
[wholly obtained or produced entirely in the territory of one or more of the Parties]

b. Product-Specific Rules of Origin  
[produced entirely in the territory of one or more of the Parties using **non-originating materials** provided the good satisfies all applicable requirements of Annex 4-B]

c. Produced entirely in the territory of one or more of the Parties exclusively from **originating materials**.



# Rules of Origin (Cont'd)

**A Good is USMCA  
Originating if it is:**

**d. Except for a good provided for in Chapter 61 to 63 of the Harmonized System:**

- (i) produced entirely in the territory of one or more of the Parties;
- (ii) one or more of the non-originating materials provided for as parts under the Harmonized System used in the production of the good cannot satisfy the requirements set out in Annex 4-B (Product-Specific Rules of Origin) because both the good and its materials are classified in the same subheading or same heading that is not further subdivided into subheadings or, the good was imported into the territory of a Party in an unassembled or a disassembled form but was classified as an assembled good pursuant to rule 2(a) of the General Rules of Interpretation of the Harmonized System; and
- (iii) the regional value content of the good, (RVC) is not less than 60% if the transaction value method is used, or not less than 50% if the net cost method is used; and the good satisfies all other applicable requirements of Chapter 4.



# Rules of Origin (Cont'd)

## Wholly Obtained or Produced Goods:

- Wholly obtained or produced entirely in the territory of one or more of the Parties.



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# Rules of Origin (Cont'd)

## Product-Specific Rules of Origin

- Produced entirely in the territory of one or more of the Parties using **non-originating materials** provided the good satisfies all applicable requirements of Annex 4-B.



Argentina



Texas, U.S.A.





## Rules of Origin (Cont'd)

- Produced **entirely** in the **territory** of one or more of the Parties exclusively from **originating materials**.



# Rules of Origin (Cont'd)

## De Minimis Rule

- A good is an originating good if the **value of all non-originating materials** used in the production of the good that **do not undergo an applicable change in tariff classification** set out in Annex 4-B (Product- Specific Rules of Origin) **is not more than 10 percent:**
  - of the **transaction value** of the good adjusted to exclude any costs incurred in the international shipment of the good; or
  - of the **total cost** of the good, provided that the good satisfies all other applicable requirements of Chapter 4 of the USMCA.
- **Textile or apparel products.** This rule is based on weight (not on value) and which allows foreign content within the 10% by weight and all the requirements above are also met.
- **Agricultural Products.** This rule does not apply to agricultural goods provided for in Chapters 1 through 27 of the Harmonized System unless the non-originating materials are classified in subheadings different from the subheadings in which the finished goods are classified.





# Rules of Origin (Cont'd)

- **Intermediate Materials.** The USCMA establishes that any self-produced material, other than engines and transmissions (which are components listed on Table G of the Appendix to Chapter 4), used in the production of a good, may be designated by the producer as intermediate material for purposes of calculating the regional value content, provided that, if the intermediate material is subject to a regional value content requirement, no other self-produced material subject to a regional value content requirement used in the production of that intermediate material may be designated by the producer as intermediate material. Therefore, in order to designate any raw material used in the production of a good as self-produced material, such raw material may not contain any raw material also designated as intermediate material.
- **Fungible Goods and Materials.** Several provisions included in NAFTA's Uniform Regulations (General Rules for the Application of the Provisions on Customs Matters of the North American Free Trade Agreement for Mexican purposes) were added directly to the USMCA, including the provisions governing fungible goods.





## Rules of Origin (Cont'd)

- **Accessories, Spare Parts, Tools or Instructional or Other Information Materials.** Similarly, provisions included in NAFTA's Uniform Regulations were added in Article 4.14 as relates to accessories, spare parts, tools and instructional or other information materials.
- **Automotive Goods.** NAFTA states that for a passenger vehicle or light truck to be considered as originating, it must comply with a minimum regional value content of 62.5 percent. The USMCA, on the other hand, in the Appendix to Annex 4-B (Product Specific Rules of Origin), establishes that as of the date of entry into force of the USMCA, the minimum regional value content will be 66 percent under the net cost method, increasing three percent each year, until reaching 75 percent.



# Certificates of Origin

- A. The USMCA eliminates the NAFTA certificate of origin prescribed format, instead providing a list of information requirements that USMCA certificates of origin must contain.
- B. The following elements must now be contained in USMCA certificates of origin: name of importer, exporter or producer providing the certificate of origin; certifier; exporter; producer; importer; description and HTS classification; origin criteria; blanket period; authorized signature and date.
- C. Operates under self certification procedure; no requirement of additional certification.
- D. May cover shipments within 12-month period and valid for up to four years.
- E. May be in English, Spanish or French.
- F. Must be kept for five years and contained in any invoice or other commercial document.

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# Labor Requirements

- A. In Chapter 23, the USMCA strengthens labor provisions, introduces dispute settlement procedures and requires each Party to adopt and maintain laws on core worker rights.
- B. Mexico's labor law compliance will be monitored and allows filing a complaint with the United States or Canadian governments if a "Covered Facility" in Mexico is violating Mexico's labor laws.
- C. The Parties recognize their ILO obligations and agree to enforce their labor laws to protect labor rights in the ILO Declaration on Rights at Work, including freedom of association, effective collective bargaining, the elimination of forced labor, abolition of child labor, elimination of child labor, and prohibition of discrimination with respect to employment and occupation.
- D. The parties may not eliminate or diminish labor rights in a manner that impacts trade or investment among the parties.
- E. Finally, each party must establish and maintain fair and impartial labor courts.



# USMCA Resources



Full text of USMCA agreement

<https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>



Main USMCA webpage

<https://ustr.gov/usmca>



USMCA Fact Sheets

<https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/fact-sheets>



USMCA Fact Sheets by State

<https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/fact-sheets/usmca-state>



USMCA Regional Value Content Calculation

[https://www.cbp.gov/sites/default/files/assets/documents/2020-Jun/%2315\\_Regional%20Value%20Content\\_USMCA%20Informational%20Fact%20Sheet.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2020-Jun/%2315_Regional%20Value%20Content_USMCA%20Informational%20Fact%20Sheet.pdf)



# T-MEC Resources



Full text of T-MEC agreement

<https://www.gob.mx/t-mec/acciones-y-programas/textos-finales-del-tratado-entre-mexico-estados-unidos-y-canada-t-mec-202730?state=published>



SAT T-MEC Webpages & Information

<http://omawww.sat.gob.mx/tmec/Paginas/index.html>



UPDATED T-MEC Information and consultations

<https://docs.google.com/forms/d/e/1FAIpQLSc2pv3C0PgcthVpXZH-mcfD1eppQDjuPGvrDww-8keNZ6TIVA/viewform>



Uniform Regulations

<https://www.gob.mx/t-mec/acciones-y-programas/textos-finales-de-las-reglamentaciones-uniformes?state=published>



T-MEC origin calculator

<https://www.snice.gob.mx/cs/avi/snice/calculadora.origen2020.html>



<https://www.gob.mx/t-mec?state=published>



# Questions/Comments

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