U.S. Customs and Border Protection

United States-Mexico-Canada Agreement (USMCA)

Updated Interim Implementing Instructions
June 16, 2020

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Contents

Background

On January 29, 2020, the United States-Mexico-Canada Agreement Implementation Act, H.R. 5430; Public Law 116-113 ("Act") was signed into law. The Act provides for the Agreement between the United States of America, the United Mexican States, and Canada, signed on December 10, 2019 and ratified by all three countries, with final ratification on March 13, 2020 ("USMCA" or "Agreement"), to enter into force on July, 1, 2020. Section 103 of the Act authorizes the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods provided for in the Agreement. The text of the Agreement is posted on the U.S. Trade Representative's website at the following URL: https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between

The Agreement provides for the immediate or staged elimination of duties and barriers to trilateral trade in goods originating in the United States, Mexico, and Canada.

This memorandum provides guidance with respect to preferential tariff claims under the USMCA.

Part 182 of title 19 of the Code of Federal Regulations (19 CFR part 182) and the Harmonized Tariff Schedule of the United States (HTSUS) General Note 11 (GN 11) to be issued on July 1, 2020, implement the Agreement and the Act. The guidance outlined in this memorandum supplements these regulations and GN 11.

On July 1, 2020, the U.S. Department of Labor (DOL) plans to issue regulations relating to its role in administering the labor value content requirement for rules of origin applicable to certain vehicles.

Phase I Implementation - First Six Months upon Entry into Force - (July 1, 2020 to December 31, 2020)

CBP understands that the trade may need time to adjust business practices to comply with the new requirements under the USMCA, particularly relating to the preferential tariff treatment of goods.

In accordance with principles established under the Customs Modernization Act (Pub. L. 103-182, 107 Stat. 2057), during the first six months after entry into force, CBP will focus on supporting the trade's efforts to fully comply with USMCA requirements, including providing webinars and other outreach efforts to educate the trade on the new Agreement.

Importers are required to exercise reasonable care when making a claim under USMCA, including ensuring that they are in possession of a complete and valid certification of origin at the time of making a claim and meeting all recordkeeping obligations.

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.

Origination

Under the USMCA, an originating good is one that meets the rules of origin set forth in GN 11 and all other requirements of the Agreement.

Eligible Articles

Dutiable tariff items eligible for preferential tariff treatment under the USMCA will indicate the SPI "S" or "S+" in the "Special" subcolumn of the HTSUS. "S+" is designated for certain agricultural tariff rate quota (TRQs) goods, agricultural staging goods, and textile tariff preference level (TPL) goods. SPI "S+" is used only when the HTSUS provides different preferential tariff treatment to each of the USMCA countries.

USMCA preference may also be claimed on unconditionally free tariff items and is used to receive the exemption from Merchandise Processing Fees (MPF), although the SPI "S" will not be listed in the "Special" subcolumn in the HTSUS for those items.

Making a Preference Claim & Entry Procedures

Importers may claim preferential tariff treatment under the Agreement on qualifying goods entered for consumption or withdrawn from warehouse for consumption, on or after July 1, 2020, using the SPI "S" or "S+."

The Automated Commercial Environment (ACE) will accept the new SPI beginning July 1, 2020 for entries entered or withdrawn from warehouse:

1. Via ABI on Entry Summary (CBPF 7501); or
2. Via Non-ABI on Entry Summary (CBPF 7501);
3. Via a post-importation claim (19 USC 1520(d)) filed within 1 year of importation as specified under "Post-Importation Claims," below.

When the filer transmits the SPI "S" or "S+" indicating a USMCA preference claim, the filer is certifying that the good complies with all RoO and recordkeeping requirements including all applicable certification requirements such as the Origin certification, Labor Value Content (LVC) certification, Steel certification, and Aluminum certification (Appendix II).

Drawback Entry (Entry Type 47)

Drawback (Entry Type 47) is the refund of certain duties, internal revenue taxes and certain fees collected upon the importation of goods and refunded when the merchandise is exported or destroyed. In general, USMCA retains drawback restrictions that exist under the North American Free Trade Agreement (NAFTA).

The following lists the changes in the USMCA drawback provision:

Substitution standards: USMCA adopts TFTEA substitution standards when drawback is permitted (*e.g.* substitution under the same 8-digit subheading of the HTSUS rather than "same kind and quality" substitution for manufacturing drawback).

Note: Claims under unused substitution drawback, 19 USC 1313(j)(2) are still ineligible for drawback under NAFTA and USMCA.

Sugar exception: USMCA made minor changes to the sugar exception to drawback and duty deferral restrictions under 19 USC 3333(a)(6). The exception is expanded in scope. More importantly, the exception retained pre-TFTEA substitution standards of "**same-kind-and quality" for specific sugar products,** to benefit the trade. TFTEA drawback substitution standards would be more prohibitive.

ACE indicator for drawback: For entries that are relevant for drawback under USMCA, CBP has created an ACE indicator (check box) for USMCA (similar to the NAFTA indicator) that is added at claim level to handle drawback. Expect that the sunset for drawback entries will be at least 5-years after USMCA EIF.

Conditions of export: In NAFTA, there is a provision to apply a fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act, subject to Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures). This does not exist in USMCA.

Drawback claims for Section 201 and/or 301 duties: As with NAFTA, drawback filers for USMCA can submit claims related to Section 301 and/or 201 duties. Please see Cargo Systems Messaging Service number #19-000050.

Note: Further questions regarding Drawback contact: OTDRAWBACK@cbp.dhs.gov.

Reconciliation Entry (Entry Type 09)

For Reconciliation (Entry Type 09):

- Starting July 1, 2020, and pending publication in the Federal Register Notice of a modification to the Reconciliation prototype to allow flagging for the USMCA Free Trade Agreement (FTA), importers will be able to flag an entry summary at the time it is filed for the possibility of making a post-importation under 1520(d) claim for USMCA preference.
- Filing of a reconciliation entry is not mandatory, but it is the exclusive means to file a USMCA claim once the Entry Summary is flagged for FTA.
- After flagging the entry summary for FTA, the filing of a separate post importation USMCA claim covering the entry summary will be considered duplicative and will not be accepted.

For further questions regarding reconciliation, contact: OT-RECONFOLDER@cbp.dhs.gov

Post-Importation Claims

If, at the time of importation, a good qualified as originating but a claim for preference was not

made, the USMCA permits importers to make a post-importation preference claim to request a refund of the duties paid at entry. The MPF paid at time of entry will not be refunded for post-importation claims for preference, under the USMCA.

The importer may make a post-importation claim within one year of importation in accordance with 19 USC 1520(d). The claim must include:

1) A declaration stating that the good qualified as an originating good at the time of importation and the number and date of the entry or entries covering the good,
2) A copy of a certification containing the required data elements (Annex 5-A of the Agreement) (Appendix II, Annex A of this document) demonstrating that the good originated at or before importation,
3) A statement indicating whether the entry summary or equivalent documentation was provided to any other person, and
4) A statement indicating whether a protest, petition or request for re-liquidation has been filed relating to the good and identification of such filing(s).

Importers may use the ACE Reconciliation Prototype to submit post-importation preference claims pursuant to 19 USC 1520(d). All reconciliation entries must follow the reconciliation process and be accepted.

If CBP finds that the certification is illegible, incomplete or contains incorrect information or that the post-importation claim otherwise does not comply with the requirements, the post-importation claim will be denied with a statement specifying the deficiencies. Corrections are allowed, up to the one-year expiration period on 1520(d) claims, unless the claim is reviewed and decided.

General Rules of Origin (RoO)

Section 202 of the USMCA Implementation Act specifies the rules of origin used to determine whether a good qualifies as an originating good under the Agreement. The HTSUS GN 11 includes both the general and specific rules of origin, definitions, and other related provisions.

In general, under the USMCA, a good is originating based on the following four RoO criterion A-D and the good satisfies all other applicable requirements:

- **Criterion A**: The good is wholly obtained or produced entirely in the territory of one or more of the USMCA countries, as defined in Article 4.3 of the Agreement;

- **Criterion B:** The good is produced entirely in the territory of one or more of the USMCA countries using non-originating materials, provided the good satisfies all applicable requirements of product-specific rules of origin;

- **Criterion C**: The good is produced entirely in the territory of one or more of the USMCA countries exclusively from originating materials; or

- **Criterion D:** The good is produced entirely in the territory of one or more of the USMCA

countries. It is classified with its materials, or satisfies the "unassembled goods" requirement, and meets a regional value content threshold of not less than 60% if the transaction value method is used, or not less than 50% if the net cost method is used (not including RVC for autos); except for goods in Chapter 61-63 of the HTSUS.

Rules of Origin for Automotive Goods

The Appendix to Annex 4-B of Chapter 4 of the USMCA includes the rules of origin requirements that apply to automotive goods.

Appendix A to part 182 provides the definitions that are applicable to automotive goods, the regional value content requirements specific to automotive goods, the steel and aluminum purchase requirement, the labor value content requirements, as well as the regional value content requirements for core parts, principal parts, and complementary parts.

In addition to the rules of origin requirements, a passenger vehicle, light truck, or heavy truck is originating only if, during the time-period specified (Section 17(7) of the Appendix to 19 CFR 182), at least seventy percent of a vehicle producer's purchases of steel and aluminum, by value, in the territories of the USMCA countries are originating. Producers are required to certify their corporate purchases of steel and aluminum. Furthermore, a passenger vehicle, light truck, or heavy truck is originating only if the vehicle producer certifies and can demonstrate that its production meets the applicable labor value content requirement.

For more information, see Part VI of the Appendix to the 19 CFR 182 – Automotive Goods.

Rules of Origin for Textiles and Apparel

Textiles and apparel products may qualify as originating under USMCA if they meet the requirements as specified in the Agreement. See **APPENDIX I** of this document for the implementing instructions related to textile and apparel goods.

Regional Value Content (RVC) Calculation Methods

The Agreement provides for two Regional Value Content (RVC) calculation methods: (1) the transaction value method and (2) the net cost method.

The Transaction Value Method: RVC = (TV-VNM)/TV x 100 where

- **RVC** is the regional value content, expressed as a percentage;
- **TV** is the transaction value of the good, adjusted to exclude any costs incurred in the international shipment of the good; and
- **VNM** is the value of non-originating materials including materials of undetermined origin used by the producer in the production of the good.

The Net Cost Method: RVC = (NC-VNM)/NC x 100 where

- **RVC** is the regional value content, expressed as a percentage;
- **NC** is the net cost of the good; and

- **VNM** is the value of non-originating materials including materials of undetermined origin used by the producer in the production of the good.

De Minimis (Non-Textile)

Under the 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 GN 11(o) is not more than 10 percent of either:

1) the transaction value of the good adjusted to exclude any costs incurred in the international shipment of the good; or
2) the total cost of the good.

If the good is also subject to an RVC requirement, the value of de minimis materials is included in the total value of the non-originating materials.

A good that is otherwise subject to an RVC requirement, is not required to satisfy the requirement, if the value of all non-originating materials used in the production of the good, 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 the total cost of the good, provided that the good satisfies all other applicable requirements.

Treatment of Sets

The set provision applies to a good classified as a result of the application of rule 3 of the General Rules for the Interpretation (GRI 3) of the HTSUS.

Notwithstanding the product-specific rules of origin in GN 11, goods put up in sets for retail sale and classified as a result of applying GRI 3, are originating, only if each good in the set is originating and both the set and the goods meet all other applicable requirements; or the total value of the non-originating goods in the set does not exceed 10 percent of the value of the set, and the goods meet all other applicable requirements.

Transit and Transshipment

An originating good retains its originating status if the good that is transported to the United States does not pass through the territory of a non-USMCA country.

If an originating good is transported outside the territories of the USMCA countries, the good will retain its originating status only if the good:

a) remains under Customs control in the territory of a non-USMCA country; and
b) does not undergo an operation outside the territories of the USMCA countries other than: unloading; reloading; separation from a bulk shipment; storing; labeling or marking required by the importing USMCA country; or any other operation necessary to preserve it in good condition or to transport the good to the territory of the importing USMCA country.

Merchandise Processing Fees (MPF) Exemption

The USMCA provides that originating goods and tariff preference level (TPL) goods are exempt from MPF if the claim for preferential tariff treatment is made at the time of entry.

Unconditionally free goods that qualify as USMCA originating may claim MPF exemption using the SPI "S." Such claims are subject to the same rules of origin, certification, recordkeeping, and verification requirements as claims for preference on dutiable goods.

Country of Origin Marking Rules

The rules of origin contained in 19 CFR Part 102 determine the country of origin for marking purposes of a good imported from Canada or Mexico in accordance with the requirements of 19 CFR Part 134.

Except for certain agricultural goods, a good does not need to first qualify to be marked as a good of Canada or Mexico (as was the case in NAFTA) in order to receive preferential tariff treatment under USMCA.

The product specific rules of origin contained in GN 11(O) determines whether a good originates under the USMCA.

Certification of Origin Requirements

The importer may make a claim for preferential tariff treatment based on a certification of origin completed by the importer, the exporter, or the producer, for purposes of certifying that the good qualifies as an originating good.

A certification of origin may be completed by the importer, exporter, or producer of the good on the basis of:

- The certifier of the certification of origin having information, including documents that demonstrate that the good is originating; or
- In the case of an exporter who is not the producer of the good, reasonable reliance on the producer's written representation, such as in a certification of origin, that the good is originating.

In addition, the following requirements apply to the certification of origin:

- The certification need not be in a prescribed format; it may be provided on an invoice or any other document, except an invoice or commercial document issued in a non-Party,
- It may be completed and submitted electronically,
- It may cover a single importation or multiple importations of identical goods within a maximum 12-month period,
- It must contain the nine data elements set out in Annex 5-A of the Agreement (Appendix II, Annex A of these instructions)
- It meets all other applicable requirements.

An importer is required to have a valid certification of origin in its possession at the time the USMCA preference claim is made.

If CBP requests the certification of origin and it is illegible, is defective on its face, or is incomplete, the importer will be granted a period of not less than five working days to provide a copy of the corrected certification of origin.

The certification may be submitted in English, Spanish, or French. If submitted in Spanish or French, the English translation should also be provided to CBP.

A certification of origin is not required for: (1) a non-commercial importation of a good or (2) a commercial importation for which the value of the originating goods does not exceed US $2,500, provided the importation does not form part of a series of importations that may be considered to have been undertaken or arranged for purposes of evading U.S. laws, regulations, or procedures governing claims for preferential treatment.

If CBP determines that an importation described in this section is part of a series of importations carried out or planned for purposes of evading compliance with preference requirements, the importer may be required to submit the certification of origin.

The importer is responsible for exercising reasonable care concerning the accuracy of the certification of origin and all documentation submitted to CBP.

Auto Certification Requirements for Passenger Vehicles, Light Trucks, and Heavy Trucks

In addition to the certification of origin, producers of passenger vehicles, light trucks, and heavy trucks are required to submit three new certifications to receive preferential tariff treatment under the USMCA for these goods – Labor Value Content (LVC) certification (Annex B), Steel certification, (Annex C) and Aluminum certification (Annex C). See Annex B and Annex C of this document for the certifications' minimum data element requirements.

The procedures described below apply to vehicle producers' filing of LVC certification, steel certification, and aluminum certification for passenger vehicles, light trucks, and heavy trucks.

Automotive producers, exporters, and importers are allowed **until December 31, 2020 to obtain and submit necessary certifications and documentation for 2020**.

A passenger vehicle, light truck, or heavy truck is eligible for preferential tariff treatment only if the producer provides to CBP the required LVC certification, steel certification, aluminum certification, and has information on record to support those calculations relied on for the certifications. However, in accordance with Phase 1 Implementation Policy described previously, CBP will permit automotive producers, exporters, and importers to obtain and submit the necessary certifications and documentation **by December 31, 2020** for claims of preferential tariff treatment of qualifying passenger vehicles, light trucks, or heavy trucks entered for consumption or withdrawn from

warehouse for consumption, on or after July 1, 2020 and through the end of calendar year 2020. For subsequent LVC certification, steel certification, and aluminum certification, CBP will provide additional guidance on the timing and submission of such certifications.

How to file with CBP LVC, Steel, and Aluminum Certification

1. Submit documentation for each of the three certifications to the USMCA Center at USMCA@cbp.dhs.gov
2. The USMCA Center will reply to sender within two business days acknowledging receipt and tracking number.

LVC Certification Review for Errors and Omissions

The USMCA Center will submit the LVC certification to DOL for review for omissions and errors within five business days from acknowledging receipt of the producer certification.
DOL will review the LVC certification within **60 days** and respond to CBP with status of their review - either "no errors" or "errors found."

1. If the USMCA Center receives "no errors" status from DOL, then the USMCA Center will accept the certification and reply to the producer, "certification accepted."
2. If the USMCA Center receives "errors found" status, accompanied by a description of the errors or omissions from DOL, then CBP will reply to the producer, "certification rejected," describe the errors and omissions, and give the producer an opportunity to supply further information. CBP will inform the producer that further information or documentation is due to CBP in five business days.
3. Producer should resubmit a revised certification to CBP via the USMCA Center. The USMCA Center will coordinate review with DOL.
4. DOL will review the new documentation for omissions and errors within 30 days and reply to the USMCA Center with their determination.
5. If the USMCA Center receives "no errors" status form DOL, CBP will accept the certification and reply to the producer, "Certification accepted."
6. If the USMCA Center receives "errors found" status from DOL, then CBP will reject the LVC certification and the USMCA Center will reply to the producer with "certification not properly filed."
7. If producer received a "certification not properly filed," a new certification package must be submitted to CBP via the USMCA Center.

Steel and Aluminum Certification Review for Errors and Omissions

The USMCA Center will review the steel certification and aluminum certification for errors and omissions and determine "no error" status or "errors found" status and the description of the errors or omission

1. If "no errors" found, the USMCA Center will accept the certification and reply to the producer, "Certification accepted."
2. If "errors found," the USMCA Center will reply to the producer with a notification that "certification rejected" and a description of the errors or omissions for action. The USMCA Center will inform the producer that further information or documentation is required and additional information is due to CBP in five business days.

3. The producer should submit a revised certification to CBP via the USMCA Center. The USMCA Center will review the revised certification for omissions and errors within 30 days.
4. If "no errors" found, the USMCA Center will accept the Steel or Aluminum certification.
5. If "errors found," the USMCA Center will reject the Steel or Aluminum certification and will reply to the producer with "certification not properly filed."

The USMCA Center will notify producers of the status of each certification upon completion of the Center's review. Upon receipt of final documentation and within 90 days of initial submission, CBP will inform the producer if their certifications are "properly filed" and have been "accepted."

If CBP determines that the producer's certifications are "not properly filed," the producer must resubmit a new package for review. Until such point that CBP has determined that the producer's certifications are "not properly filed," the producer may continue to submit claims for preferential tariff treatment of qualifying passenger vehicles, light trucks, and heavy trucks.

Auto RVC Averaging Election Requirements for Passenger Vehicles, Light Trucks, and Heavy Trucks

For the purpose of calculating the regional value content of a passenger vehicle, light truck, or heavy truck, the calculation may be averaged over the producer's fiscal year, using any of the following categories, on the basis of either all motor vehicles in the category or only those motor vehicles in the category that are exported to the territory of one or more of the other USMCA countries:

a) the same model line of motor vehicles in the same class of vehicles produced in the same plant in the territory of a USMCA country;
b) the same class of motor vehicles produced in the same plant in the territory of a USMCA country;
c) the same model line or same class of motor vehicles produced in the territory of a USMCA country;
d) all vehicles produced in one or more plants in the territory of a USMCA country that are exported to the territory of one or more of the other USMCA countries: or
e) any other category as the USMCA countries may decide.

Producers are allowed until **July 31, 2020** to submit RVC averaging elections for 2020. See Annex D to this document.

Correction of False/Unsupported USMCA Claims

An importer will not be subject to penalties under 19 USC 1592 for making an incorrect claim that a good qualifies as a USMCA originating good if the importer, in accordance with the prescribed regulations, makes a corrected claim within 30 days of discovery and pays any duties and MPF owed with respect to that good.

Recordkeeping Requirements

Any importer who claims preferential tariff treatment under the Agreement for a good imported into the United States from a USMCA country must keep the following documentation for a

period of no less than five years from date of entry:

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

The importer must render these records for examination and inspection upon request per 19 USC 1508 –1510 and 19 CFR Part 163.6.

Any exporter or producer who completes a USMCA certification of origin or provides a written representation for a good exported from the United States to a USMCA country must keep all records and supporting documents related to the origin of the good (including the certification or copies thereof), including records related to:

1. the purchase, cost, value, and shipping of, and payment for, the good or material;
2. the purchase, cost, value, and shipping of, and payment for, all materials, including indirect materials, used in the production of the good or material; and
3. the production of the good in the form in which is exported or the production of the material in the form in which it was sold.

These records must be maintained for a period of no less than five years from date of entry and must be rendered for examination and inspection upon request.

In addition to the recordkeeping requirements denoted above, any vehicle producer, whose good is the subject of a claim for preferential tariff treatment under the USMCA, must keep records and supporting documents related to the labor value content and steel and aluminum purchasing requirements.

The vehicle producer must retain these records for a period of five years after the date of filing the certifications and render them for examination and inspection upon request. It is anticipated that the U.S. Department of Labor will issue regulations addressing in more detail recordkeeping requirements related to the high-wage components of the labor value content requirements.

The requirement on the importer, exporter, and producer to maintain records applies even if the importing Party does not require a certification of origin or if a requirement for a certification of origin has been waived.

Verification by CBP

Pursuant to Article 5.9 of the USMCA, CBP may conduct a verification to determine whether a good entered with a claim for preferential tariff treatment qualifies as originating by one or more of the following:

(1) a written request or questionnaire, such as a CBP Form 28, Request for Information, seeking information, including documents, from the importer,

exporter, or producer of the good;

(2) a verification visit to the premises of the exporter or producer of the good in order to request information, including documents, and to observe the production process and the related facilities;

(3) for a textile or apparel good, the procedures set out in Article 6.6 of the Agreement; or

(4) any other procedure as may be decided by the USMCA countries.

CBP may initiate the verification to the importer or to the person who completed the certification of origin. If CBP initiates a verification to the exporter or the producer, it will inform the importer of the initiation of the verification.

If CBP requests information from the importer and the importer does not provide sufficient information to demonstrate that the good is originating, and the importer was not the certifier, CBP shall request information from the certifier (i.e., exporter or producer) before it may deny the claim for preferential treatment.

When conducting a verification, CBP will accept information, including documents, directly from the exporter, producer, or importer.

As each verification involves a unique set of facts and the requirements of product-specific rules differ widely, CBP does not provide an all-inclusive list of documents required to substantiate that a good qualifies as an originating good. Information that may be helpful during a verification includes but is not limited to the following:

- Flow-charts, technical specifications and other documents explaining the manufacturing process.
- An explanation of how the good meets the specific rule of origin in GN 11;
- A bill of materials showing the classification number, origin, and cost of each material;
- Certifications or affidavits from the producer of each originating material attesting to the country of manufacture and its originating status;
- Purchase orders and proof of payment to substantiate values;
- Documentation pertaining to assists, inventory management methods, indirect materials, etc.;
- Raw materials invoices;
- Production records; and
- Export documents.

If CBP intends to deny preferential tariff treatment based on information submitted during the verification, CBP will inform the importer, and any exporter or producer who is the subject of the verification and provided information during the verification. CBP will allow additional information to be submitted 30 days after CBP has informed the USMCA countries of its intent to deny the claim.

Verification for the Automotive Commodities

CBP recognizes that importers of automotive commodities (i.e., passenger vehicle, light trucks, heavy trucks) may need additional time to adjust business practices in order to demonstrate compliance with new requirements under the USMCA, particularly relating to the preferential tariff treatment of goods. In order to provide vehicle producers and auto parts producers, as well as importers and exporters of vehicles and auto parts, adequate time to adjust to the new requirements and, in consideration of the business process changes that may be necessary to achieve full compliance, CBP will allow additional time to respond to a verification (CBP Form 28, Request for Information) for the first 12 months of entry into force.

Issuing a Determination

CBP will provide the importer, exporter, or producer that certified the good is originating and is the subject of a verification, with a written determination of origin, either positive or negative, that includes the findings of facts and the legal basis for the determination. If the importer is not the certifier, CBP will also provide the written determination to the importer.

If the importer provides CBP with sufficient information to demonstrate the goods originate, CBP will notify the importer via a CBP Form 29-Notice of Action. If the certification of origin of a good that is the subject of a verification, is completed by the exporter or producer of the good, CBP will also notify the exporter or producer. The CBP Form 29 will indicate the positive determination, and include the HTSUS number, description of the good, and the rule of origin that applies to the good.

If the importer does not adequately substantiate the claim, CBP will notify the importer, and any exporter or producer who is subject to the verification and who provided information during the verification, via a CBP Form 29, Notice of Action, "Proposed Action." The importer and any other party receiving the notice will have 30 days to submit additional information to substantiate that the imported goods meet the requirements for preferential duty treatment under USMCA. (Article 5.9.16)

If CBP does not receive additional information supporting the claim for preferential treatment within 30 days, CBP will issue a negative determination to the importer, and the exporter or producer, as appropriate, via a CBP Form 29, Notice of Action, "Action Taken." CBP will deny the preference claim and liquidate the entries with the applicable duties, taxes, and fees.

Impact of a Negative Determination on a Blanket Certification

If a preference claim is made on a good covered by a blanket certification, and a negative determination is issued, CBP shall deny preference to all importations of identical goods covered by that blanket certification and liquidate the entries with the applicable duties, taxes and fees.

Pattern of Conduct

When CBP finds through pattern of conduct (Article 5.9.17) that an importer continues to claim preference on a good previously the subject of a negative determination, CBP may deny

preference on identical goods imported by such importer until compliance with the rules of origin is established.

When the verifications indicate a pattern of conduct by an exporter or a producer of false or unsupported representations that a good qualifies as an originating good, CBP may deny preferential tariff treatment from identical goods exported or produced by such entity, until compliance with the rules of origin is established.

Protest Rights

Importers or other authorized parties may file a protest to contest a denial of preferential tariff treatment of a claim made at entry pursuant to 19 USC 1514 within 180 days of liquidation. If approved, the goods will be eligible for preferential treatment and CBP will refund the duties and MPF accordingly. If a protest relates to the analysis of the Department of Labor relating to high-wage components of the labor value content requirements of a covered vehicle, a protestant may not request accelerated disposition of the protest.

Questions regarding this guidance can be directed to Maya Kamar, Director, Textiles and Trade Agreements Division at 202 945 7228 or email FTA@CBP.DHS.GOV.

Supporting Documents - Web Links:

Federal Register Notice:
TBD

United States-Mexico-Canada Agreement (USMCA) Bill HR 5430:
https://www.congress.gov/116/bills/hr5430/BILLS-116hr5430enr.pdf

United States-Mexico-Canada Agreement (USMCA) Uniform Regulations:
https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/uniform-regulations

U. S. Customs and Border Protection (CBP) - CBP.gov:
https://www.cbp.gov/trade/priority-issues/trade-agreements/free-trade-agreements/USMCA

U.S. International Trade Commission-Harmonized Tariff Schedule of the United States:
http://www.usitc.gov

APPENDIX I – Textile and Apparel Rules of Origin Procedures

USMCA Eligibility for Textiles and Apparel

Textile and apparel products may qualify as originating under USMCA if they meet the requirements as specified in GN 11 and in the Agreement. Products eligible for preferential tariff treatment will be identified in the "special" column of the HTSUS by SPI code "S" and "S+".

In general, the USMCA textile and apparel rules of origin are based on the yarn-forward concept. The yarn-forward concept requires that the formation of yarn, weaving or knitting of fabric, and cutting and sewing of a garment or other made-up article must occur in one or more of the USMCA countries to the Agreement.

There are, however, exceptions to these requirements, depending on the product being imported. For more specific information, refer to GN 11 and Annex I of the Modification to the HTS to implement USMCA. Below is a general summary of the types of processes required to occur within the USMCA countries for a textile or apparel product to be considered eligible for preferential tariff treatment under USMCA.

a) Yarn – generally follows the fiber-forward rule of origin, which means that the fiber must originate in the United States, Mexico or Canada and the yarn must be spun or extruded and finished in one or more of the USMCA countries to qualify for preferential tariff treatment.

b) Woven Fabric – generally follows the yarn-forward rule of origin, which means that the yarn must be spun or extruded and finished and the fabric woven in one or more of the USMCA countries to qualify for preferential tariff treatment. The fibers may be of any origin.

c) Knit Fabric – follows the fiber-forward rule of origin, which means that the fiber must originate in the United States, Mexico or Canada, the yarn must be spun or extruded and finished, and the fabric knit in one or more of the USMCA countries to qualify for preferential tariff treatment.

d) Apparel and made-up articles– generally follow the yarn-forward rule. The yarn must be spun or extruded and finished, the fabric woven or knit, or the components knit-to-shape, and the apparel or made-up article sewn and/or assembled in one or more of the USMCA countries to qualify for preferential tariff treatment.

There are certain exceptions to the usual yarn-forward rules of origin. The exceptions include certain apparel goods produced using a cut-and-sew (single transformation) rule, modifications to specific rules of origin for commercial availability determinations, tariff preference levels (TPLs), and the United States/Mexico Assembly provision. Each of these exceptions is briefly described below.

• Cut-and-sew (single transformation) rules apply for apparel goods of Chapter 62 using certain fabrics. These rules allow non-originating fabric and/or yarns to be used to produce certain apparel articles. All of the production steps beginning with the cutting of the fabric or knitting-to-shape, and

sewing and/or assembly of all the components, must occur in one or more of the USMCA countries. These rules can be found in the rules of origin for Chapter 62 of the HTS in Annex 4-B of the USMCA. For these cut-and-sew apparel rules of origin, the Chapter 62 rules governing narrow elastic fabrics, sewing thread and pocket fabric do not apply.

• The commercial availability provision provides for modifying specific rules of origin to allow for use of certain non-originating fibers, yarns, and fabrics that have been determined not to be available in commercial quantities in a timely manner.

• Tariff preference levels allow preferential tariff treatment for specified quantities of certain yarns, fabrics, apparel, and made-up textiles goods that do not meet the USMCA rules of origin but which have undergone significant processing in one or more USMCA countries.

• The United States/Mexico assembly provision allows preferential tariff treatment for textile and apparel goods that are assembled in Mexico from fabrics that are wholly formed and cut in the United States. The wholly formed and cut fabrics are exported to Mexico, where they are assembled, and then imported into the United States using the provisional HTS number 9802.00.91 in conjunction with the HTS number of the finished textile or apparel good. Visible lining fabric may be of any origin.

For this provision, "wholly formed and cut" means that all production processes and finishing operations, starting with the weaving, knitting, needling, tufting, felting, entangling, or other process, and ending with the fabric ready for cutting without further processing and cut into parts ready for assembly, took place in the United States.

De Minimis (Textiles)

A textile or apparel good classified in Chapters 50 through 60 or heading 9619 that is not an originating good because certain non-originating materials used in the production of the good do not undergo an applicable tariff classification change as noted in Annex I or GN 11, shall nonetheless be considered an originating good if the total weight of all those non-originating materials is not more than 10% of the total weight of the good. Within the overall 10% de minimis limit, the total weight of elastomeric content may not exceed 7%.

The de minimis also applies to textile and apparel goods classified in Chapters 61 through 63. A textile or apparel good of Chapters 61 through 63 that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex I or GN 11, shall nonetheless be considered an originating good if the total weight of all such fibers or yarns in that component is not more than 10% of the total weight of that component, of which the total weight of elastomeric content may not exceed 7%.

Treatment of Sets (Textile)

Textile and/or apparel goods that are put up for retail sale as a set and classified in accordance with Rule 3 of the General Rules of Interpretation under the HTSUS, shall be considered originating

goods if each of the goods in the set is an originating good OR the total value of the non-originating goods in the set does not exceed 10 percent of the value of the set [determined under GN 11].

Special Rules for Chapter 61, 62, and 63 Products

Component that Determines Tariff Classification
For purposes of goods of these Chapters, the rule applicable to that good shall only apply to the component that determines the tariff classification of the goods and such component must satisfy the tariff change requirements set out in the rule for that good.

Visible Linings
Under the USMCA, fabric used for visible linings in certain apparel, such as suits, coats and skirts (apparel classified in Chapters 61 and 62 (knit and woven apparel)) may be sourced from outside of the United States, Mexico and Canada.

Narrow Elastic Fabric
Upon entry into force of the Agreement, narrow elastic fabric of subheading 5806.20 or heading 6002 (used in apparel products of Chapter 61 and 62) may be sourced from anywhere. However, effective 18 months after the date of entry into force of the Agreement, apparel containing narrow elastic fabrics of subheading 5806.20 or heading 6002 will be considered originating only if such fabrics are both formed from yarn and finished in the territory of one or more of the USMCA countries. The apparel article must also satisfy the tariff shift requirement(s) that apply to the good.

A fabric of subheading 5806.20 or heading 6002 is considered formed from yarn and finished in the territory of one or more USMCA countries if all production processes and finishing operations, starting with the weaving, knitting, needling, tufting, or other process, and ending with the fabric ready for cutting or assembly without further processing, took place in the territories of one or more of the USMCA countries, even if non-originating yarn is used in the production of the fabric of subheading 5806.20 or heading 6002.

Sewing Thread
Upon entry into force of the Agreement, sewing thread of headings 5204, 5401 or 5508, or yarn of heading 5402 used as sewing thread, used in apparel products of Chapter 61 and 62, may be sourced from anywhere. However, effective 12 months after the date of entry into force of the Agreement, apparel containing sewing thread of headings 5204, 5401 or 5508, or yarn of heading 5402 used as sewing thread shall be considered originating only if such sewing thread is both formed and finished in the territory of one or more of the USMCA countries. The apparel article must also satisfy the tariff shift requirements(s) that apply to the good.

Sewing thread is considered formed and finished in the territory of one or more USMCA countries if all production processes and finishing operations, starting with the extrusion of filaments, strips, film or sheet, and including slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with the finished single or plied thread ready for use for sewing without further

processing, took place in the territories of one or more of the USMCA countries even if non-originating fiber is used in the production of sewing thread of headings 5204, 5401 or 5508, or yarn of heading 5402 used as sewing thread.

Pocket Bag Fabric

Upon entry into force of the Agreement, the pocket bag fabric used in apparel products of Chapter 61 and 62 may be sourced from anywhere. However, effective 18 months after the date of entry into force of the Agreement, for apparel containing a pocket or pockets, the pocket bag fabric must be both formed and finished in one or more of the USMCA countries from yarn that was wholly formed in one or more of the USMCA countries. The component must also satisfy the tariff shift requirement(s) that apply to the good.

For apparel of Chapter 62 made of blue denim fabric of subheadings 5209.42, 5211.42, 5212.24, and 5514.30, the pocket bag fabric rule is effective 30 months from the date of entry into force of the Agreement.

Pocket bag fabric is considered formed and finished in the territory of one or more of the USMCA countries if all production processes and finishing operations, starting with the weaving, knitting, needling, tufting, felting, entangling, or other process, and ending with the fabric ready for cutting or assembly without further processing, took place in the territories of one or more of the USMCA countries, even if non-originating fiber is used in the production of the yarn used to produce the pocket bag fabric.

Yarn is considered wholly formed in the territory of one or more USMCA countries if all the production processes and finishing operations, starting with the extrusion of filaments, strips, film, or sheet, and including slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a finished single or plied yarn, took place in the territory of one or more of the USMCA countries, even if non-originating fiber is used in the production of the yarn used to produce the pocket bag fabric.

Pocket bag fabric is considered a pocket or pockets if the pockets in which fabric is shaped to form a bag is not visible as the pocket is in the interior of the garment (i.e. pockets consisting of “bags” in the interior of the garment). Visible pockets such as patch pockets, cargo pockets, or typical shirt pockets are not subject to the chapter rule.

Coated Fabrics

Upon entry into force of the Agreement, coated or laminated fabrics used in the assembly of a textile article of Chapter 63 may be sourced from anywhere. However, effective 18 months after the date of entry into force of the agreement, a good of Chapter 63 made of fabric classified in 5903, is considered to be originating only if all the fabrics used in the production of the fabrics of heading 5903 are formed and finished in Canada, Mexico or the United States. Fabrics of heading 5903 are coated, laminated or impregnated with plastics.

However, this does not apply to the following goods:

• 6305 – Bags,

• 6306.12 – Tarpaulins, awnings, and sun blinds of synthetic fibers,

• 6306.22 – Tents of synthetic fibers, and,
• Miscellaneous made-up articles of subheading 6307.90 that are not surgical drapes or national flags.

A fabric of heading 5903 is considered formed and finished in the territory of one or more USMCA countries if all production processes and finishing operations, starting with the weaving, knitting, needling, tufting, felting, entangling, or other process, including coating, covering, laminating, or impregnating, and ending with the fabric ready for cutting or assembly without further processing, took place in the territories of one or more of the USMCA countries, even if non-originating fiber or yarn is used in the production of the fabric of heading 5903.

Rayon Fiber and Rayon Filament
Rayon filament, other than lyocell or acetate, of headings 5403 or 5405, and rayon fibers, other than lyocell or acetate, of headings 5502, 5504, or 5507, may be of any origin when used in a good classified in Chapter 50 through 63 or heading 9619, provided that the good otherwise meets the applicable product specific rule.

Tariff Preference Levels (TPLs)

Tariff preference levels provide duty-free access for specified quantities of yarns, fabrics, apparel and made-up textile goods that do not meet the origin criteria (i.e., non-originating goods), but undergo significant processing in one or more Party countries. When imports exceed the established annual quantitative levels, the imported goods are subject to most-favored nation (MFN) rates of duty. Imports under TPLs are exempt from merchandise processing fees.

PREFERENTIAL TARIFF TREATMENT FOR NON-ORIGINATING APPAREL

Imports into United States:	**from Canada**	**from Mexico**
(a) Cotton or Man-made fiber apparel	40,000,000 SME	45,000,000 SME**
(b) Wool apparel	4,000,000 SME*	1,500,000 SME

These TPLs cover apparel goods of Chapter 61 and 62 and textile or apparel goods, other than of wadding, of heading 9619 of the Harmonize System that are both cut (or knit to shape) and sewn or otherwise assembled in the territory of any of the USMCA countries from fabric or yarn produced or obtained outside of the territories of any of the USMCA countries, and that meet other applicable conditions for preferential tariff treatment under GN 11.

• (*Of the 4,000,000 SME annual quantity of wool apparel imports from Canada into the United States, no more than 3,800,000 SME shall be men's or boys' wool suits of U.S. category 443.)

• (**(a) Apparel made of the following headings and subheading are **not eligible** for preferential tariff treatment between Mexico and the United States for this TPL:

o (i) blue denim: subheading 5209.42 or 5211.42; U.S. tariff items 5212.24.60.20, 5514.30.32.10, or 5514.30.39.10; Mexican tariff items 5212.24.01, or 5514.30.02; or any successor provision to these tariff items, and

o (ii) fabric woven as plain weave where two or more warp ends are woven as one (oxford cloth) of average yarn number less than 135 metric number: subheading 5208.19, 5208.29, 5208.39, 5208.49, 5208.59, 5210.19, 5210.29, 5210.39, 5210.49, 5210.59, 5512.11, 5512.19, 5513.13, 5513.23, 5513.39, or 5513.49, or any successor provision to these tariff items;

• (b) apparel goods of U.S. tariff items 6107.11.00, 6107.12.00, 6109.10.00 or 6109.90.10; Mexican tariff items 6107.11.02, 6107.11.99, 6107.12.02, 6107.12.99, 6109.10.02, 6109.10.99, 6109.90.03, or 6109.90.91; or any successor provision to these tariff items, if they are composed chiefly of circular knit fabric of yarn number equal to or less than 100 metric number;

• (c) apparel goods of subheading 6108.21 or 6108.22 if they are composed chiefly of circular knit fabric of yarn number equal to or less than 100 metric number; and

• (d) apparel goods of U.S. tariff items 6110.30.10.10, 6110.30.10.20, 6110.30.15.10, 6110.30.15.20, 6110.30.20.10, 6110.30.20.20, 6110.30.30.10, 6110.30.30.15, 6110.30.30.20, or 6110.30.30.25; apparel goods of those tariff items are classified as parts of ensembles in U.S. tariff items 6103.23.00.30, 6103.23.00.70, 6104.23.00.22, or 6104.23.00.40; apparel goods of Mexican tariff item 6110.30.01; or apparel goods of that tariff item that are classified as parts of ensembles in subheading 6103.23 or 6104.23, or any successor provision to these tariff items)

PREFERENTIAL TARIFF TREATMENT FOR NON-ORIGINATING COTTON OR MAN-MADE FIBER FABRICS AND MADE-UP GOODS

Imports into United States	**from Canada**	**from Mexico**
Non-Originating Cotton or Man-Made Fiber fabrics and Made-Up Goods	71,765,252 SME*****	22,800,000 SME******

These TPLs cover cotton or man-made fiber fabric or cotton or man-made fiber made-up textile goods of Chapters 52 through 55 (excluding goods containing 36% or more by weight of wool or fine animal hair), 58, 60 and 63 of the HS that are woven or knit in the territory of Canada or Mexico from yarns produced or obtained outside the territory of any of the USMCA countries, or yarns produced in the territory of one of the USMCA countries from fibers produced or obtained outside the territory of one of the USMCA countries, or knitted or crocheted in the territory of Canada or Mexico from yarns spun in the territory of one of the USMCA countries from fibers produced or obtained outside the territory of one of the USMCA countries, and to goods of subheading 9404.90 that are finished and are cut and sewn or otherwise assembled from fabrics of subheadings 5208.11 through 5208.29, 5209.11 through 5209.29, 5210.11 through 5210.29, 5211.11 through 5211.20, 5212.11, 5212.12, 5212.21, 5212.22, 5407.41, 5407.51, 5407.71, 5407.81, 5407.91, 5408.21, 5408.31, 5512.11, 5512.21, 5512.91, 5513.11 through 5513.19, 5514.11 through 5514.19, 5516.11,

5516.21, 5516.31, 5516.41 or 5516.91 produced or obtained outside the territory of one of the USMCA countries and that meet other applicable conditions for preferential tariff treatment under GN 11.

• (*****Of the 71,765,252 SME annual quantity of imports from Canada into the United States, no more than 38,642,828 may be in goods of Chapters 52 through 55 (excluding goods containing 36% or more by weight of wool or fine animal hair), 58, or 63 (other than subheading 6302.10, 6302.40, 6303.12, 6303.19, 6304.11, or 6304.91) of the HS; and no more than 38,642,828 may be in goods of Chapter 60 or subheading 6302.10, 6302.40, 6303.12, 6303.19, 6304.11, or 6304.91 of the HS.)

• (******Of the 22,800,000 SME annual quantity of imports from Mexico into the United States, no more than 18 million SMEs of that quantity in a calendar year may be in goods of Chapter 60 and subheading 6302.10, 6302.40, 6303.12, 6303.19, 6304.11, or 6304.91 of the HS; and no more than 4,800,000 SMEs of that quantity in any given year may be in goods of Chapters 52 through 55 (excluding goods containing 36% or more by weight of wool or fine animal hair), 58, and 63 (other than subheading 6302.10, 6302.40, 6303.12, 6303.19, 6304.11, or 6304.91) of the HS.)

PREFERENTIAL TARIFF TREATMENT FOR NON-ORIGINATING COTTON OR MAN-MADE FIBER SPUN YARN

Imports into United States	**from Canada**	**from Mexico**
Non-Originating Cotton or Man-Made Fiber Spun Yarn	6,000,000 kg*****	700,000 kg

These TPLs cover cotton or man-made fiber yarns of headings 5205 through 5207 or 5509 through 5511 that are spun in the territory of Canada or Mexico from fiber of headings 5201 through 5203 or 5501 through 5507, produced or obtained outside the territories of any of the USMCA countries and that meet other applicable conditions for preferential tariff treatment under GN 11. The TPL for Canada also covers goods of heading 5605.

• (*Of the 6,000,000 kilograms annual quantity of imports from Canada into the United States, no more than 3,000,000 kilograms may be of yarns classified in headings 5509 or 5511 predominantly of acrylic by weight, and no more than 3,000,000 kilograms may be of other yarns in heading 5205 through 5207, 5509 through 5511, or 5605 of the HS.)

APPENDIX II – Certifications Minimum Data Elements & Motor Vehicle Averaging Election Data Elements

USMCA Certifications Data Elements

The USMCA certifications include the following four types of certifications:

- **Certification of origin** for all commodities– See **Annex A** for the required minimum data elements;
- **Labor Value Content Certification** for passenger vehicles, light trucks, and heavy trucks – See **Annex B** for the required minimum data elements;
- **Steel Certification** for passenger vehicles, light trucks, and heavy trucks – See **Annex C** for the requirement minimum data elements; and
- **Aluminum Certification** for passenger vehicles, light trucks and heavy trucks – See **Annex C** for the required minimum data elements.

Motor Vehicle Averaging Election Data Elements

The Motor Vehicle Averaging Election data elements and requirements - See **Annex D** to this document.

ANNEX-A – Certification of Origin

A certification of origin that is the basis for a claim for preferential tariff treatment under this Agreement shall include the following elements:

1. Importer, Exporter, or Producer Certification of Origin

Indicate whether the certifier is the exporter, producer, or importer in accordance with Article 5.2 (Claims for Preferential Tariff Treatment).

2. Certifier

Provide the certifier's name, title, address (including country), telephone number, and email address.

3. Exporter

Provide the exporter's name, address (including country), e-mail address, and telephone number if different from the certifier. This information is not required if the producer is completing the certification of origin and does not know the identity of the exporter. The address of the exporter shall be the place of export of the good in a Party's territory.

4. Producer

Provide the producer's name, address (including country), e-mail address, and telephone number, if different from the certifier or exporter or, if there are multiple producers, state "Various" or provide a list of producers. A person who wishes for this information to remain confidential may state "Available upon request by the importing authorities". The address of a producer shall be the place of production of the good in a Party's territory.

5. Importer

Provide, if known, the importer's name, address, e-mail address, and telephone number. The address of the importer shall be in a Party's territory.

6. Description and HS Tariff Classification of the Good

a) Provide a description of the good and the HS tariff classification of the good to the 6-digit level. The description should be sufficient to relate it to the good covered by the certification; and
b) If the certification of origin covers a single shipment of a good, indicate, if known, the invoice number related to the exportation.

7. Origin Criteria

Specify the origin criteria under which the good qualifies, as set out in Article 4.2 (Originating Goods).

8. Blanket Period

Include the period if the certification covers multiple shipments of identical goods for a specified period of up to 12 months, as set out in Article 5.2 - Claims for Preferential Tariff Treatment.

9. Authorized Signature and Date

The legal name, address, telephone, and email address (if any) of the responsible official or authorized agent of the importer, exporter, or producer signing the certification (if different from the certifier's name, title, address (including country), telephone number, and e-mail address).

The origin certification must include the following statement:

I certify that the goods described in this document qualify as originating and the information contained in this document is 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.

ANNEX B – Labor Value Content Certification

In order for a covered vehicle to be eligible for preferential tariff treatment under the USMCA, the producer must certify to CBP that it complies with the Labor Value Content ("LVC") requirements of the Appendix to Annex 4-B ("the automotive appendix") of the USMCA. The producer must submit the information described below to CBP to certify that it complies with high-wage components of the LVC requirements.

Information to Submit for Certification

(a) To satisfy its certification obligation under section 202A(c) of the USMCA Implementation Act pertaining to the high-wage components of the labor value content requirements, a producer of the covered vehicle (as defined in these instructions) must submit the following information in its certification relating to the high-wage components of the labor value content requirement.

(1) The certifying vehicle producer's name, corporate address, Federal Employer Identification Number or alternative unique identification number, such as a Business Number (BN) issued by the Canada Revenue Agency, *Registro Federal de Contribuyentes* (RFC) number issued by Mexico's Tax Administration Service (SAT), Legal Entity Identifier (LEI) number issued by the Global Legal Entity Identifier Foundation (GLEIF), or an identification number issued to the person or enterprise by CBP, and a point of contact for the certifying vehicle producer.

(2) The vehicle class, model line, and/or other category indicating the motor vehicles covered by the certification.

(3) The time period the producer of the covered vehicle is using for its LVC calculations. For purposes of calculating the LVC, a producer of the covered vehicle may use any one of the time periods used for calculating the average hourly base wage rate, as described in Part VI of the Uniform Regulations (Appendix to 19 CFR 182).

(4) The name, address, and Federal Employer Identification Number or alternative unique identification number, such as a Business Number (BN) issued by the Canada Revenue Agency, *Registro Federal de Contribuyentes* (RFC) number issued by Mexico's Tax Administration Service (SAT), Legal Entity Identifier (LEI) number issued by the Global Legal Entity Identifier Foundation (GLEIF), or an identification number issued to the person or enterprise by CBP, for each plant or facility the producer of the covered vehicle is relying on to meet the high-wage material and manufacturing expenditures component of the LVC requirements.

(5) The average hourly base wage rate, calculated consistent with the method provided in Part VI of the Uniform Regulations (Appendix to 19 CFR 182) for each plant or facility identified in subsection (a)(4).

(6) If applicable, a statement that the producer is using high-wage transportation or related costs to meet the high-wage material and manufacturing expenditures component. If the producer is using high-wage transportation or related costs, the producer must identify the company name, address, and Federal Employer Identification Number or alternative unique identification number, such as a Business Number (BN) issued by the Canada Revenue Agency, *Registro Federal de Contribuyentes* (RFC) number issued by Mexico's Tax Administration Service (SAT), Legal Entity Identifier (LEI) number issued by the Global Legal Entity Identifier Foundation (GLEIF), or an identification number issued to the person or enterprise by CBP, for each company the producer used to calculate its high-wage transportation or related costs.

(7) If applicable, a statement that the producer is using the high-wage technology expenditures credit to meet the LVC requirements. If the producer is using the high-wage technology expenditures credit, a producer must identify the percentage the producer is claiming as a credit towards the total LVC requirement.

(8) If applicable, a statement that the producer is using the high-wage assembly expenditures credit to meet the LVC requirements. If the producer is using the high-wage assembly expenditures credit, the producer must identify the following:

(i) The name, address, and Federal Employer Identification Number (for U.S. plants) or alternative unique identification number, such as a Business Number (BN) issued by the Canada Revenue Agency, *Registro Federal de Contribuyentes* (RFC) number issued by Mexico's Tax Administration Service (SAT), Legal Entity Identifier (LEI) number issued by the Global Legal Entity Identifier Foundation (GLEIF), or an identification number issued to the person or enterprise by CBP for the assembly plant the producer used to qualify for the high-wage assembly expenditures credit; and

(ii) The average hourly base wage rate, calculated consistent with the method provided in Part VI of the Uniform Regulations (Appendix to 19 CFR 182), for such assembly plants.

(b) To be eligible for preferential tariff treatment immediately upon the USMCA entering into force, producers of covered vehicles must meet the high-wage components of the labor value content requirements set forth in article 7 of the automotive appendix of the USMCA or, if the producer is subject to the alternative staging regime, under Articles 7 and 8 of that appendix, on the date the USMCA enters into force. A producer's initial certification relating to the high-wage components of the labor value content requirement, containing the information described in subsection (a), shall be filed with CBP by December 31, 2020.

(c) Producers of covered vehicles must ensure that records are kept of information to support the

calculations submitted under subsections (a)(5), (a)(7), and (a)(8)(ii). Producers must be able to provide records upon request but the records may be physically maintained by a supplier or contractor. Records will be accepted directly from a supplier or contractor where, for example, the producer and supplier or contractor have contracted for such an approach.

(d) The requirements in this section apply to all producers of covered vehicles during the alternative staging regime period and after the alternative stage regime period ends.

For purposes of meeting these requirements:

(a) The U.S. Department of Labor, in consultation with CBP, shall ensure that the certification of a producer does not contain omissions or errors before the certification is considered properly filed; and

(b) a calculation based on a producer's preceding fiscal or calendar year is valid for the producer's subsequent fiscal or calendar year, as the case may be, as set forth in Articles 7 and 8 of the automotive appendix.

Further details on LVC Certification review will be published in US Department of Labor rule-making process. For any Labor related questions, please contact:

Whitney Ford, Director,
Division of Immigration and Farm Labor, Wage and Hour
U.S. Department of Labor
Room S-3502, 200
Constitution Avenue, NW, Washington, DC 20210,
Telephone: (202) 693-0406

ANNEX C – Steel and Aluminum Certification

In order for a covered vehicle to be eligible for preferential tariff treatment under the USMCA, the producer must certify to CBP that it complies with the Steel and Aluminum ("S&A") requirements of the automotive appendix.

A covered vehicle shall be eligible for preferential tariff treatment only if the producer of the covered vehicle:

(i) provides a certification to CBP that the production of covered vehicles by the producer meets the steel and aluminum purchase requirements set forth in Article 6 of the automotive appendix or, if the producer is subject to the alternative staging regime, Articles 6 and 8 of that appendix; and

(ii) has information on record to support the calculations relied on for the certification.

For purposes of meeting these requirements:

(i) CBP shall ensure that the certification of a producer does not contain omissions or errors before the certification is considered properly filed; and

(ii) a calculation based on a producer's preceding fiscal or calendar year is valid for the producer's subsequent fiscal or calendar year, as the case may be, as set forth in Articles 6 and 8 of the automotive appendix.

Any vehicle producer, whose good is the subject of a claim for preferential tariff treatment under the USMCA, must keep records and supporting documents related to the labor value content and steel and aluminum purchasing requirements.

The vehicle producer must retain these records for a period of five years and render them for examination and inspection upon request.

When the filer transmits the SPI "S" to indicate a USMCA claim, the filer is certifying the goods comply with all RoO and recordkeeping requirements including, as applicable, LVC certification and Steel & Aluminum Certifications.

The required data elements for the Steel and Aluminum certification are the following:

- **Producer** - the producer's name, address (including country), e-mail address, and telephone number.
- **Certifier** - the certifier's name, title, address (including country), telephone number, and email address.
- **Producer's Purchase of Steel** - the calculation used to determine that the producer has complied with the steel purchasing requirement in GN 11(k)(v). The calculation should include the total value of the vehicle producer's purchases at the corporate level of steel listed in Table S of the Appendix to 19 CFR part 182 in the territories of one or more of

the USMCA countries, the total value of those purchases that qualify as originating goods, and the resulting percentage.

- **Producer's Purchases of Aluminum** - the calculation used to determine that the producer complied with the aluminum-purchasing requirement in GN 11(k)(v). The calculation should include the total value of the vehicle producer's purchases at the corporate level of aluminum listed in Table S of the Appendix to 19 CFR part 182 in the territories of one or more of the USMCA countries, the total value of those purchases that qualify as originating goods, and the resulting percentage.
- **Calculation Periods** - the period of time over which the purchases are made in the calculations above (i.e., over the previous fiscal year, over the previous calendar year, over the quarter or month to date in which the vehicle is exported, over the fiscal year to date in which the vehicle is exported, or over the calendar year to date in which the vehicle is exported.)
- **Authorized Signature and Date** - the certification must be signed and dated by the certifier and
- **Certifying Statement** – include following certifying statement*:*
  I certify that, over the relevant period indicated in this document, the producer has satisfied the steel and aluminum purchase requirement as set out in GN 11(k)(v). The information in this document is true and accurate, and 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.

ANNEX D – Motor Vehicle Averaging Election

The purpose of the Motor Vehicle Averaging Election (hereby referred to as "Election to Average") is to obtain from a producer of passenger vehicles, light trucks, or heavy trucks an election to average its regional value content (RVC) calculations of such vehicles in accordance with Part VI of the Appendix to 19 CFR Part 182 (Regulations).

An Election to Average shall be completed with respect to each category that is chosen by the producer of a motor vehicle set out in section 16 of the Regulations (Averaging for Passenger Vehicles, Light Trucks and Heavy Trucks) in filing an election pursuant to subsection 16(5).

Unlike the motor vehicle averaging election form used under NAFTA (NAFTA Form 447), the required data elements for the Election to Average under the USMCA may be provided in free format.

The required data elements for motor vehicle averaging election are the following:

- **Producer Fiscal Year** – the fiscal year period selected for averaging
- **Producer Name & Address -** the producer's name, address (including country), e-mail address, and telephone number.
- **Certifier** - the certifier's name, title, address (including country), telephone number, and email address.
- **Period with respect to election made** - the starting date and ending date of the averaging election period.
- **Motor Vehicle Averaging Category** the averaging category chosen by the producer and the estimated Regional Value Content of either all motor vehicles in that category or only those motor vehicles in the category that are exported to the territory or one or more of the other USMCA countries. The averaging categories are:
    - Category A: The same model line of motor vehicles in the same class of vehicles produced in the same plant in the territory of a USMCA country;
    - Category B: The same class of motor vehicles produced in the same plant in the territory of a USMCA country; or
    - Category C: The same model line or same class of motor vehicles produced in the territory of a USMCA country.
- **Vehicles to be Averages -** the model name, the model line (applies only to category A and C), class of motor vehicle, and tariff classification of the motor vehicles in that category.
- **Location of the Plant** – the location(s) of the plant at which the motor vehicles are produced.
- **Basis of Regional Value Content -** the basis of the calculation in determining the estimated regional value content of motor vehicles.
- **Authorized Signature and Date -** the authorized officer's name, title, signature, and date.