USMCA Rules of Origin

The U.S.-Mexico-Canada Agreement (USMCA) was signed on November 30, 2018. The Rules of Origin are in Chapter 4 of the agreement. Every U.S. free trade agreement (FTA) has a set of provisions that describe the qualifications for a good to be determined to “originate” in a country that is a party to the FTA and, thus, is eligible for preferential treatment – namely, a reduction (or elimination) of the normal duty that is assessed when the good enters the United States.

If the good is not “wholly obtained” or produced in the USMCA region, it must undergo a "substantial transformation" in one of the three USMCA countries and/or meet regional value content (RVC) requirements to confer origin. The agreement’s Rules of Origin chapter covers all goods by their Harmonized Tariff Schedule (HTS) codes.

The USMCA Rules of Origin outline what kind of transformation meets the criteria for aluminum products (HTS Chapter 76) to qualify as originating for USMCA purposes:

**Chapter 76 Aluminum and Articles Thereof**

76.01   A change to heading 76.01 from any other chapter.
76.02   A change to heading 76.02 from any other heading.
76.03   A change to heading 76.03 from any other chapter.
76.04   A change to heading 76.04 from any other heading.
76.05   A change to heading 76.05 from any other heading, except from heading 76.04 or 76.06.
76.06   A change to heading 76.06 from any other heading.
76.07   A change to heading 76.07 from any other heading.
76.08-76.09   A change to heading 76.08 through 76.09 from any heading outside that group.
76.10-76.13   A change to heading 76.10 through 76.13 from any other heading, including another heading within that group.
76.14   A change to heading 76.14 from any other heading, except from heading 76.04 through 76.05.
76.15-76.16   A change to heading 76.15 through 76.16 from any other heading, including another heading within that group.

For comparison, NAFTA Article 401 and its annex contain the defining set of origin specifications for the status quo NAFTA. HTSUS General Note 12 (19 U.S.C. § 1202) sets forth the criteria for determining whether a good is originating under the NAFTA.

Auto Sector Rules of Origin

In summary, USMCA includes the following requirements for passenger vehicles to qualify for USMCA benefits:

- Raises the overall Regional Value Content (RVC) requirement from the current 62.5% to 75% for passenger vehicles, over time.
• Creates an **automotive parts RVC** in three new categories: **core parts** at 75%, **principal parts** at 70%, and **complementary parts** at 65%.

  o The Annex 4-B vehicle RVC requirements have three tables with specific parts codes defining content requirements and phase-in periods.

    ▪ **Core:** This category includes items such as engines, lithium ion batteries, bodies, gear boxes, axles, and steering and suspension components. These products must have 66% RVC beginning January 1, 2020, (and growing to 75% in 2023) – relying on the “net cost method.” If the “transaction method” is used, it starts at 76% and rises to 85% by 2023. And of course, there are some exceptions to these requirements.

      o **NOTE:** USMCA requires that items in the “Core Parts” bin must be originating content for a finished vehicle to meet the RVC. To comply with the core parts requirement, either 1) each core part must individually meet the RVC threshold or 2) the total content of core parts value must be originating. Under this second option, which is called the “Super-Core” provision, a vehicle may contain some non-originating core parts, such as a transmission, and still comply with the core parts requirement. However, under either option, if a very high-value core part is non-originating, the vehicle will fail the core parts requirement – and therefore would fail the RVC requirement and be subject to tariff.

    ▪ **Principal:** The RVC is set at 62.5% for 2020, growing to 70% in 2023 – using the net cost method. The list of components includes tires, rear-view mirrors, hydraulic fluid pumps, compressors, air conditions, electronic brake systems, clutches and shaft couplings, airbags, tapered roller bearings and flywheels.

    ▪ **Complementary:** This covers a wide range of items – including pipes, locks, catalytic converters, valves, electric motors, batteries, distributors and windshield wipers, defrosters & demisters, and wiring sets – and the RVC is set at 62% in 2020 and rises to 65% in 2023 (net cost method). This reflects the higher raw material costs sourced outside of the region.

• Creates a new ROO known as **Labor Value Content (LVC),** with three subsections: high-wage material and manufacturing expenditures, high-wage technology expenditures, and high-wage assembly expenditures. The LVC rises from 30-40% over time, and there is a limit to how much of each subsection can count toward that overall requirement.

  o “High-wage material and manufacturing expenditures” is calculated by taking the annual purchase value of parts and materials produced by workers making at least $16 per hour as a percentage of the net cost of a vehicle or the annual purchase value of the total vehicle plant assembly. The “production wage rate” of $16 per hour is defined as “the average hourly base wage rate, not including benefits, of employees directly involved in the production of the part or component used to calculate the labor value content. It does not include the salaries of employees in management, research and development, engineering, or other positions not on the production line.

  o “High-wage technology expenditures” are the annual vehicle producer expenditures in North America on wages for research and development (R&D) or information technology (IT) as a percentage of total annual vehicle producer expenditures on production wages in North America.
“High-wage assembly expenditures” can be counted if a vehicle producer demonstrates that it has an engine assembly, transmission assembly, or an advanced battery assembly plant, or has long term contracts with such a plant, located in North America with an average production wage of at least $16/hour.

- Creates a new requirement that OEM automakers must source 70% of their aluminum and steel from North America, certified on an annual basis (Article 4.B-6) – including direct purchases, purchases through a services center, and purchases contracted through a supplier. This requirement is applied on a fleet-wide, company/account basis for the OEM automakers.

  - USTR has said this requirement is intended to reflect application of the USMCA Chapter 76 ROOs for aluminum and aluminum products. Implementing regulations, though, will further clarify the specific HTS codes covered.

**Auto ROO Phase-In Period:**

The new rules would be phased in over three years, following entry into force, with the possibility that some companies could continue to receive duty-free treatment for autos for up to five years under an “alternative staging regime.” The phase-in will begin on January 1, 2020, or the date of entry into force of the agreement – whichever is later. Those stages cannot start before January 1, 2020, or end before January 1, 2023.

- Overall vehicle RVC requirement for passenger vehicles/light trucks (62.5% current level)
  - January 1, 2020: 66%
  - January 1, 2021: 69%
  - January 1, 2022: 72%
  - January 1, 2023: 75%

- There is a different set of rules for heavy trucks. Starting in 2020, heavy trucks must meet a 60% RVC requirement --- rising to 70% in 2027.

- Labor Value Content (no current requirement)
  - January 1, 2020: 30% (minimum of 15% from materials/manufacturing; maximum of 10% from technology; maximum of 5% from assembly). Note: light- and heavy-truck origination is frozen at this calculation.
  - January 1, 2021: 33% (from a minimum of 18% from materials/manufacturing; maximum of 10% from technology; maximum of 5% from assembly)
  - January 1, 2022: 36% (from a minimum of 21% from materials/manufacturing; maximum of 10% from technology; maximum of 5% from assembly)
  - January 1, 2023: 40% (from a minimum of 25% from materials/manufacturing; maximum of 10% from technology; maximum of 5% from assembly)

- OEMs must purchase “originating” steel and aluminum (no current requirement, as metal is “deemed originating”)
  - January 1, 2020 (or the day the agreement takes effect): 70% of a vehicle producer’s purchases must originate in North America – including direct purchases, purchases
through a services center, and purchases contracted through a supplier. The base includes all production, including exported vehicles in the following year.

- The Annex 4-B vehicle RVC requirements have three tables with specific parts codes defining content requirements and phase-in periods:
  - **Core**: This category includes items such as engines, lithium ion batteries, bodies, gear boxes, axles, and steering and suspension components. These products must have 66% RVC beginning January 1, 2020, (and growing to 75% in 2023) – relying on the “net cost method.” If the “transaction method” is used, it starts at 76% and rises to 85% by 2023. And of course, there are some exceptions to these requirements.
  - **Principal**: The RVC is set at 62.5% for 2020, growing to 70% in 2023 – using the net cost method. The list of components includes tires, rear-view mirrors, hydraulic fluid pumps, compressors, air conditions, electronic brake systems, clutches and shaft couplings, airbags, tapered roller bearings and flywheels.
  - **Complementary**: This covers a wide range of items – including pipes, locks, catalytic converters, valves, electric motors, batteries, distributors and windshield wipers, defrosters & demisters, and wiring sets – and the RVC is set at 62% in 2020 and rises to 65% in 2023 (net cost method). This reflects the higher raw material costs sourced outside of the region.

**Business Impacts of New Rules of Origin**

**Origin Certification**: The USMCA streamlines the origin certification process under the status quo NAFTA, reducing anachronistic requirements such as original signatures and prescribed formats for certificates – hopefully providing greater flexibility for importers and exporters, reducing the administrative cost of compliance, and speeding up transportation/release of goods. There are three important changes to the filing process for certificates of origin:

- No prescribed format is required, unlike the NAFTA which requires the use of definitive information and formatting in a required Certificate of Origin;
- Electronic signatures and electronic submissions are permitted; and
- Importers may certify origin, unlike the NAFTA where only producers and/or exporters can complete a certificate of origin.

Under NAFTA, parties were required to use a prescribed Certificate of Origin form (completed by the exporter). Under the USMCA, parties "need not follow a prescribed format". A certificate may be provided on an invoice or "any other document" that has – amongst other requirements – information to specify that the goods are originating and describe the goods in sufficient enough detail to allow for identification. USMCA certification of origin may be signed by an exporter, producer or importer and may be completed and submitted electronically with a digital signature.

**Record Keeping**: CBP has guidance for claiming NAFTA/USMCA preferences on its website [here](#). Generally, an importer is responsible for paying duties and will need to have a certificate of origin on hand to claim a duty-free trade agreement preference at the time of import (or afterward).

In the auto sector, both vehicle producers and those providing parts to vehicle producers will be required to certify that vehicles and parts meet the requirements of the agreement. The higher RVC thresholds and new requirements will likely require updates and changes to supply chain agreements throughout the
sector – especially to reflect the transition regime, the new LVC requirements, and the new North American steel and aluminum requirement.

*Enforcement Mechanisms:* U.S. government can verify USMCA preference claims in a number of ways -- through targeted inquiries, questionnaires, site visits and Customs audits. The importer can claim FTA preferential treatment if they can reasonably rely on a properly documented NAFTA certificate, so CBP will likely contact the exporter for proper verification.

**ANNEX**

**“Melted and Poured” Standard**

A “melted and poured” standard has been common in the steel industry (and Buy American procurement requirements) since 1983 – and is therefore more strongly associated with the steel industry than the aluminum industry. There is no “melted and poured” standard within NAFTA or USMCA, but the Rules of Origin for metals under various HTS chapters/coes may incentivize sourcing of raw materials within the region with RVC thresholds or other requirements.

The [Surface Transportation Assistance Act of 1982](https://www.gpo.gov/fdsys/pkg/USCODE-1984-title49/pagelast-5.html) placed domestic content requirements on federal grants that go to states and localities, mandating that various materials (such as steel) used for infrastructure projects must be “produced in the United States.” Individual agencies have interpreted the meaning of “produced in the United States” differently, but many agencies say steel must be “melted and poured” in America to qualify. President Trump highlighted in the April 2017 [EO on “Buy American, Hire American”](https://www.whitehouse.gov/press-release/executive-order-buy-american-hire-american/) that the “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States (see this [letter](https://www.ala.org/news-events/press-releases/2019/4/27/donald-trump-signs-executive-order-buying-only-made-in-us-steel) from the steel groups in support).