

USMCA Implementation: Key Dates and Advocacy Opportunities

The timeline below identifies key dates and events leading up to USMCA’s expected entry into force on July 1, 2020. Leading up to that date, businesses have a unique advocacy opportunity to influence the implementing regulations and associated processes, such as legislative changes to Mexico’s domestic laws. Annexes to this fact sheet detail substantive issues and related data for each date.

<p>April</p>	<p>20th: U.S. CBP¹ released Interim Implementing Instructions², which provide guidance with respect to preferential tariff claims under the USMCA.</p> <p>21st and 23rd: USTR³ published requirements, procedures, and guidance required to implement the USMCA alternative staging regime for autos. Mexico released the same document in draft format for regulatory improvement purposes.</p> <p>24th: The United States notified the completion of its domestic procedures to implement the Agreement. Therefore, the Agreement will enter into force on July 1, 2020.</p> <p>28th: The United States established the Interagency Labor Committee for Monitoring and Enforcement to monitor the implementation and maintenance of the labor obligations of Canada and Mexico.</p> <p>30th: Mexico finally published in the Federation’s Official Gazette the Agreement by which the Secretary of Economy released to the North America producers of passenger vehicles and light trucks the procedures for the Submission of petitions to use the Alternative Staging Regimen established in Appendix to Annex 4-B to the Chapter 4 of the United States-Mexico-Canada Agreement.</p> <p>30th: Mexican Congress finalizes its first regular period of Sessions of 2020. This is the last opportunity before the expected entry into force of the USMCA in July 1st, in which the Mexican Legislative Branch may approve amendments to domestic laws necessary to implement USMCA commitments (see Annex). The next period will run from September 1st until December 15th.</p>
<p>June</p>	<p>1st: The Parties have informally agreed to finalize Uniform Regulations by this date. President Trump is also expected to transmit a letter to the U.S. Congress certifying that Canada and Mexico have implemented their USMCA commitments. This letter is required by U.S. law at least 30 days prior to entry into force.</p>

¹ Customs and Border Protection.

² United States Trade Representative.

³ This document is for advance informational and advisory purposes only. It is not final and is subject to further revision.

<p>July</p>	<p>1st: The USMCA will enter into force.</p> <p>1st: To qualify for an alternative staging regime, for USMCA Rules of Origin for Automotive goods, a vehicle producer must submit a petition with a draft alternative staging plan. The alternative staging regime is to provide additional time and different phase-in of the new requirements (importers of certain vehicles will have an additional 2 years to meet the requirements and the vehicles will have different RVC⁴ and LVC⁵ thresholds).</p> <p>2nd: Disputes are expected to be filed under the rapid response labor enforcement mechanism. More inquiries on the status of implementation efforts are also likely between the Parties. The United States is expected to take interest in Mexico's implementation of domestic labor reform laws.</p>
<p>August</p>	<p>31st: If deficiencies in a vehicle producer's draft alternative staging plan are identified, it must submit a petition and final draft plan correcting those deficiencies by this date. If no deficiencies are identified, the vehicle producer must submit a petition with a final draft alternative staging plan with any modifications, or a statement requesting that its draft alternative staging plan be considered final, by this date.</p>

⁴ Regional Value Content.

⁵ Labor Value Content.

Annex 1: April 20 –CBP Interim Implementing Instructions

Summary: CBP issued interim implementing instructions in place of implementing regulations and updates to HTSUS General Note 11, which are still under development. The instructions are intended to provide interim guidance with respect to the procedures for making preferential tariff claims until those regulations are issued. The instructions are advisory in nature and subject to change.

Topics Covered: The instructions provide basic guidance with respect to many aspects of the process to make a preferential tariff claim under the USMCA. Much of the document addresses the rules of origin for automotive goods and textiles and apparel. Other topics covered include origination, regional value content calculation, treatment of sets, transshipment, origin marking, making preference claims, certification and other documentation requirements, recordkeeping, and verification.

Key Takeaways:

- **Certificates of Origin:** USMCA has enhanced flexibility on the format of the Certificate of Origin, but the Certificate must still be complete at the time of the duty preference claim and in the possession of the importer at that time.
- **Marking:** The NAFTA Country of Origin Marking Rules will continue to determine the country of origin of goods imported from Canada and Mexico for marking purposes. However, most goods will no longer have to first qualify to be marked as a product of Mexico or Canada (as was the case under NAFTA) to benefit from preferential treatment under the USMCA. In most cases, only the product-specific rules of origin contained in General Note 11 are needed to determine whether a good originates under the USMCA.
- **Post-Importation Preference Claims:** Like under NAFTA, USMCA preference claims will be available after importation, but Merchandise Processing Fees (MPF) will no longer be refunded following a post-importation claim.
- **Treatment of Sets:** All products imported as a “set” under HTSUS General Rule of Interpretation 3 must qualify for preferential treatment independently, or the total non-originating value in the set must be less than 10% of the declared value.
- **False Preference Claims:** Importers will not be subject to CBP penalties for false or unsupported USMCA claims if, within 30 days of discovery, a corrected declaration is made, and all duties and fees are paid.
- **Auto RVC and LVC Requirements:** The instructions provide definitions, methodologies, and examples for the calculation of the RVC and LVC for automotive goods, including the relevant steel and aluminum purchase requirements.

- **Additional LVC Regulations Forthcoming:** While the instructions provide interim guidance on the LVC calculations, CBP notes that the U.S. Department of Labor will issue the regulations with further guidance on this topic.

Annex 2: April 21 and April 30 – Alternative Staging Regime Petition Process

Summary: These procedures provide guidance for North American producers of passenger vehicles and light trucks on submitting petitions to use the alternative staging regime for the USMCA auto rules of origin. The alternative staging regime gives producers additional time to comply with and alters the phase-in schedule for the new auto rules of origin. If approved, vehicle producers may use the alternative regime for five years after the agreement enters into force, though the procedures contemplate requests for additional time.

Eligibility for Alternative Staging Regime:

- To qualify for the alternative staging regime, the vehicle importer must intend to claim preferential treatment and the vehicle producer must determine that it will be “unable or unlikely to be able” to meet the rules of origin under the standard staging regime.
- The number of vehicles eligible for the alternative regime is generally limited to ten percent of the producer’s total vehicle production during the year prior to USMCA’s entry into force, or the average of that production over the three years prior to the entry into force date. Producers may request additional coverage beyond ten percent of production.
- During and after the alternative staging period, vehicle producers must satisfy specific regional and labor value content thresholds, as well as thresholds for purchases of originating steel and aluminum in order for their vehicles to be considered originating under the agreement.

Petition Requirements:

- Eligible producers must submit draft alternative staging plans to the relevant regulatory authorities no later than July 1, 2020, with a final version due no later than August 31, 2020.
- If producers’ request for alternative staging is under ten percent of production, the petition need only include a cover letter making statements and certifications required by the notice⁶.
- If producers intend to request alternative staging for more than ten percent of their production, the submission must also include, among other things:
 - A “detailed and credible plan” outlining the changes the company will make to its operations, sourcing, and vehicle content to meet the rules of origin;
 - Data on R&D, IT, and direct production worker wages in North America for 2019;
 - Values of North American steel and aluminum purchases for 2019;
 - Data on assembly capacity, production, sales, and vehicle models; and
 - A certification that all vehicle models will meet standard staging requirements upon the expiration of the alternate period.

⁶ The Mexican publication of these requirements to implement the USMCA alternative staging regime for autos, did not include this hypothesis.

Petition Review:

- Petitions will be evaluated based on the “level of detail and credibility” of the information provided. The relevant authorities will notify producers of deficiencies, which must be corrected in the final draft, and will issue written determinations.
- The authorities will publish and maintain a list of vehicle producers authorized to use the alternative staging regime. Failure to meet the requirements of the alternative regime will result in removal from that list.

Annex 3: April 30 - Mexican Domestic Legislation under review and discussion at the Mexican Congress and related Chapters of the USMCA

Mexico's Domestic Legislation	USMCA related Chapter
<p>Law of Quality Infrastructure (<i>Ley de la Infraestructura de la Calidad</i>)</p>	<p>Technical Barriers to Trade (11) Sectoral Annexes (12) Good Regulatory Practices (28)</p>
<p>Industrial Property Law (<i>Ley de la Propiedad Industrial</i>) Copyright Law (<i>Ley Federal del Derecho de Autor</i>) Federal Law of Vegetal Varieties (<i>Ley Federal de Variedades Vegetales</i>) Federal Criminal Code (<i>Código Penal Federal</i>)</p>	<p>Intellectual Property (20) MX US Side Letter on Cheese MX US Side Letter on Prior Users</p>