



# FedEx Regulatory Alerts & Updates

## Regulatory Alert: Mexico Import Details for USMCA

June 19, 2020

### Background

The United States-Mexico-Canada Agreement (USMCA) was signed on November 30, 2018, replacing the North American Free Trade Agreement (NAFTA). With all three countries having ratified and properly notified one another of their preparedness to implement the USMCA, the official entry into force date is July 1, 2020.

Among the more significant changes in USMCA are the addition of provisions to cover commercial activities not previously addressed in NAFTA, including digital trade and e-commerce, intellectual property rights and industry-specific provisions for express deliveries. Modifications from the current NAFTA include notable changes to rules of origin, particularly for automobiles and automotive parts. These rules will generally increase the minimum input levels to qualify for preferential tariff treatment, including certain worker hourly wage requirements in Mexico's automotive sector.

### What are the key changes in the USMCA that differentiate it from NAFTA?

#### 1. Certification of Origin

##### What is the change?

Chapter 5 of USMCA eliminates the specific certificate of origin document required under NAFTA. This requirement will be replaced with a "**certification of origin**", consisting of nine data elements to be contained in shipment documents (e.g., commercial invoice), without the need for a self-contained government form. Under USMCA, this requirement is not needed for shipments below USD\$1,000 in value. Both the U.S. and Canada have decided to unilaterally go beyond the USMCA and raise this threshold to USD\$2,500, and CAD\$3,300, respectively. Mexico has not indicated whether it will raise the USD\$1,000 threshold.

The nine data elements required for the certification of origin for USMCA are:

- i. Importer, Exporter, or Producer Certification of Origin – indicating whether the certifier is the exporter, producer, or importer in accordance with Article 5.2 (Claims for Preferential Tariff Treatment).
- ii. Certifier – providing the certifier's name, title, address (including country), telephone number, and email address.
- iii. Exporter – providing 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.
- iv. Producer – providing 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 that 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.

- v. Importer – providing, 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.
- vi. Description and HS Tariff Classification of the Good –
  - a. Providing 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 5-A-2.
  - b. If the certification of origin covers a single shipment of a good, indicate, if known, the invoice number related to the exportation.
- vii. Origin Criteria – Specifying the origin criteria under which the good qualifies, as set out in Article 4.2 (Originating Goods).
- viii. Blanket Period – including 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).
- ix. Authorized Signature and Date – the certification must be signed and dated by the certifier and accompanied by 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.*

## 2. De Minimis

### What is the change?

Article 7.8.1 of USMCA establishes new duty and tax de minimis thresholds for low value shipments into Canada and Mexico. Under the new rules, Canada will raise its *de minimis* threshold from CAD\$20 to CAD\$40 for taxes and up to CAD\$150 for customs duties, and Mexico will maintain its USD\$50 threshold for taxes and raise the threshold for duties to USD\$117. Today, Mexico collects a 16% flat tax rate on shipments valued between USD\$50 and USD\$1,000, and a 20% flat tax rate on shipments valued above USD\$1,000, all of which are duty-free as long as they are cleared through informal entry. The U.S. *de minimis* remains at USD\$800.

## 3. Low Value Informal Clearance

### What is the change?

Article 7.8.2 of USMCA establishes the **express low value shipment informal clearance threshold** will increase in Canada from CAD\$2,500 to CAD\$3,300, with the U.S. and Mexico committing to a USD\$2,500 level. The U.S. threshold is already set at \$2,500, but it is unclear at this time if Mexico will modify its express shipments regulations to raise informal clearance threshold from USD\$1,000 to USD\$2,500.

The table below provides a quick reference of the three key USMCA changes on express import requirements, plus a general highlight on the automotive rules of origin changes, based on the information available at the date of this posting.

Highlights of the Changes	CA Imports	US Imports	MX Imports
<b>Certification of Origin</b>	Will replace the current NAFTA ‘Certificate of Origin’ proof of origin requirement. The U.S. and Canada will not require the Certification of Origin for goods valued below USD\$2,500, and CAD\$3,300, respectively. At this moment, Mexico will continue to require the Certification of Origin for goods above USD\$1,000.		

<p><b>Low Value Shipment Informal Clearance Threshold</b></p>	<p>The threshold will increase from CAD\$2,500 to CAD\$3,300 for all imports, regardless of origin. Shipments imported with a value below the threshold (containing goods that are not regulated, controlled or prohibited) do not require formal entries to be submitted for customs clearance.</p>	<p>The current USD\$2,500 formal value threshold will remain the same and shipments (containing goods that are not regulated, controlled or prohibited) valued below the threshold, will not require formal entries to be submitted for customs clearance.</p>	<p>It is expected the existing informal entry thresholds will remain in Mexico (MX). Under current MX customs regulations, the threshold for express shipments is USD\$1,000. A separate regime exists for personal individual imports with a threshold of USD\$3,000 for certain eligible individuals and other limited cases.</p> <p>This is subject to change once a full set of Uniform Regulations are issued, and MX publishes its internal USMCA implementing regulations.</p>
<p><b>* De Minimis (the monetary value below which qualifying shipments are free from duties, taxes, or formal customs import procedures)</b></p>	<p>Shipments with a value below the <i>de minimis</i> threshold are exempt from duties and taxes. The current value threshold of CAD\$20 will increase for express shipments (postal shipments not included) imported directly from the U.S. or MX as follows:</p> <ul style="list-style-type: none"> <li>- Goods valued at CAD\$40 or less will not be charged duties and taxes</li> <li>- Goods valued from CAD\$40 to CAD\$150 will not be charged duty but are subject to applicable Federal and Provincial taxes.</li> </ul>	<p>The U.S. <i>de minimis</i> threshold remains the same at USD\$800.</p>	<p>The current value threshold of USD\$50 will remain the same for express and postal shipments, regardless of the country of origin as follows:</p> <ul style="list-style-type: none"> <li>- Goods valued at USD\$50 or less will not be charged duties or taxes.</li> <li>- Goods valued from USD\$50 to USD\$117 will be charged taxes but shall not be charged duties.</li> </ul> <p>Today duties are not charged for informal entries for express shipments up to \$1,000, and for individual importers without limits, generally.</p> <p>This is subject to change once MX publishes its internal USMCA implementing regulations.</p>

<b>Automotive Industry – New country of origin rules and labor provisions for manufacturing</b>	<p>These include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>- Introduction of a Labor Value Content (LVC) requirement where a certain percentage (40% for automobiles and 45% for trucks) of an auto producer's activities must be carried out by workers earning an average wage of at least US\$16/hour.</li> <li>- At least 70% of steel and aluminum purchases made by vehicle producers must originate from North America.</li> <li>- 70% of all steel manufacturing processes must take place in one of the three countries, with the exception of metallurgical processes.</li> <li>- Higher Regional Value Content (RVC) required for certain automobiles and automobile components; 75% must be from one of the three countries (up from 62.5%).</li> </ul>
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## Q & A

### **Q1: How long will the current NAFTA rules remain in place?**

A1: NAFTA rules will remain in effect until the USMCA enters into force on July 1, 2020. It is important to note that shipments picked up in the US, CA, or MX prior to July 1, 2020 but arriving in MX, CA, or US on July 1 will need to comply with for USMCA. Since NAFTA ends on June 30, 2020, customers will need to be aware of the hard transition over to USMCA on July 1, 2020. Ideally, shipments that are to be cleared from Customs in Mexico as of July 1, 2020 shall be compliant with USMCA Certification of Origin requirements.

### **Q2: Is there a certification of origin exemption for low value shipments?**

A2: Yes. Article 5.5 of the agreement provides that there is no certification of origin requirement for shipments valued below \$1,000 USD, or its equivalent (in currency), or higher value, as established by the importing USCMA country. However, a written statement certifying that the good qualifies as originating may be required.

### **Q3: Will there be “informed compliance” for the first few months of the USMCA?**

A3: There has not been a final decision as of this alert's posting date. If there is a final decision in favor of “informed compliance”, it will be communicated in the future.

### **Q4: When will Customs authorities in the three countries finalize their implementing regulations?**

A4: This should be done before the July 1, 2020 entry in force date. However, there is growing speculation that Mexico may not have their full set of implementing regulations finalized until after July 1, 2020.

### **Q5: What other reasons might a shipment valued at \$50 or less not be cleared as de minimis in Mexico?**

A5: In addition to value, eligibility for clearance exempt from payment of import duties and taxes for express shipments depends on other factors, mainly, compliance with non-tariff barriers of different kinds (e.g., special permits, specific restrictions on some kinds of commodities, like liquids or pharmaceuticals, to name a few). Eligibility is determined on a case-by-case basis.

### **Q6: What is the specific USMCA low-value statement for eligible shipments?**

A6: This statement can be included on the commercial invoice or as a separate document with the shipment: “I hereby certify that the goods covered by this shipment qualify as an originating good for the purposes of preferential tariff treatment under USMCA/CUSMA/T-MEC”.

### **Q7: Is there a timeframe for the regulations to be finalized for USMCA?**

A7: A first set of final Uniform Regulations has been released by the three countries and are in the process of being published in the Spanish language in Mexico. A second set of Uniform Regulations is expected soon. Mexico is also expected to release implementing regulations, ideally, before July 1, 2020. However, there is growing speculation that Mexico may not have their full set of implementing regulations finalized until after that date.

**Q8: Are there any other names for the USMCA agreement?**

A8: Yes, each of the countries involved has a specific name for this new trade agreement. In Canada, this agreement is referred to as the Canada – United States – Mexico Agreement (CUSMA) [or its equivalent in French, *Accord Canada-États-Unis-Mexique* (ACEUM)], and in Mexico, this agreement is referred to as *Tratado entre México, Estados Unidos y Canadá* (T-MEC). All three names refer to the same trade agreement.

**Q9: Are there any changes to enforcement provisions in the USMCA?**

A9: Yes, there are stronger guidelines and enforcement tools to address AD/CVD evasion, hold and inspect transshipped goods that could be in violation of intellectual property rights (IPR), prohibitions on the importation of goods made by forced labor, and requirements to prevent illegal taking of wild flora and fauna (including timber).

**References:**

USMCA text

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

MX T-MEC Landing Page - Spanish Text

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

CA CBSA CUSMA Landing Page

<https://www.cbsa-asfc.gc.ca/services/cusma-aceum/menu-eng.html>

U.S. CBP USMCA Landing Page

<https://www.cbp.gov/trade/priority-issues/trade-agreements/free-trade-agreements/USMCA>