



Overview

The new United States-Mexico-Canada Agreement (USMCA) includes additional language related to procedures for conducting origin verifications via documentation and visits that was not present in the previous North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 5, Articles 5.9
 - *Textiles Final Text*: Chapter 6, Article 6.6 and Chapter 7, Article 7.27
 - *HR 5430 Citation*: Title II, Section 207
- **NAFTA**
 - *Final Text*: Chapter 5, Section B, Article 506

Significant Changes in USMCA

Provision	USMCA	NAFTA
Additional Language	<ul style="list-style-type: none"> • USMCA has the same meaning with additional language. • USMCA, for textile or apparel goods, in addition to verification procedures set out in Article 5.9, an importing party may request a site visit. <ul style="list-style-type: none"> ○ Specific procedures for these visit are set forth in Article 6.6 	

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Origin Verification	<p>1. For the purpose of determining whether a good imported into its territory is an originating good, the importing Party may, through its customs administration, conduct a verification of a claim for preferential tariff treatment by one or more of the following:</p> <ul style="list-style-type: none"> a) a written request or questionnaire seeking information, including documents, from the importer, exporter, or producer of the good; b) 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; c) for a textile or apparel good, the procedures set out in Article 6.6 (Verification); or d) any other procedure as may be decided by the Parties. 	<p>1. For purposes of determining whether a good imported into its territory from the territory of another Party qualifies as an originating good, a Party may, through its customs administration, conduct a verification solely by means of:</p> <ul style="list-style-type: none"> a) written questionnaires to an exporter or a producer in the territory of another Party; b) visits to the premises of an exporter or a producer in the territory of another Party to review the records referred to in Article 505(a) and observe the facilities used in the production of the good; or



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	<p>2. The importing Party may choose to initiate a verification under this Article to the importer or the person who completed the certification of origin.</p> <p>3. If an importing Party conducts a verification under this Article, it shall accept information, including documents, directly from the importer, exporter, or producer.</p> <p>4. If a claim for preferential tariff treatment is based on a certification of origin completed by the exporter or producer, and in response to a request for information by an importing Party to determine whether a good is originating in verifying a claim of preferential treatment under paragraph 1(a), the importer does not provide sufficient information to demonstrate that the good is originating, the importing Party shall request information from the exporter or producer under paragraph 1 before it may deny the claim for preferential tariff treatment. The importing Party shall complete the verification, including any additional request to the exporter or producer under paragraph 1, within the time provided in paragraph 15.</p> <p>5. A written request or questionnaire seeking information, including documents, or a request for a verification visit, under paragraphs 1(a) or (b) shall:</p> <ul style="list-style-type: none"> a) include the identity of the customs administration issuing the request; b) state the object and scope of the verification, including the specific issue the requesting Party seeks to resolve with the verification; c) include sufficient information to identify the good that is being verified; and (d) in the case of a verification visit, request the written consent of the exporter or producer whose premises are going to be visited and indicate: <ul style="list-style-type: none"> i. the legal authority for the visit, ii. the proposed date and location for the visit, iii. the specific purpose of the visit, and iv. the names and titles of the officials performing the visit. <p>6. If an importing Party has initiated a verification under paragraph 1(a) or 1(b) other than to the</p>	<p>c) such other procedure as the Parties may agree.</p> <p>2. Prior to conducting a verification visit pursuant to paragraph (1)(b), a Party shall, through its customs administration:</p> <ul style="list-style-type: none"> a) deliver a written notification of its intention to conduct the visit to <ul style="list-style-type: none"> i. the exporter or producer whose premises are to be visited, ii. the customs administration of the Party in whose territory the visit is to occur, and iii. if requested by the Party in whose territory the visit is to occur, the embassy of that Party in the territory of the Party proposing to conduct the visit; and b) obtain the written consent of the exporter or producer whose premises are to be visited. <p>3. The notification referred to in paragraph 2 shall include:</p> <ul style="list-style-type: none"> a) the identity of the customs administration issuing the notification; b) the name of the exporter or producer whose premises are to be visited; c) the date and place of the proposed verification visit; d) the object and scope of the proposed verification visit, including specific reference to the good that is the subject of the verification; e) the names and titles of the officials performing the verification visit; and f) the legal authority for the verification visit. <p>4. Where an exporter or a producer has not given its written consent to a proposed verification visit within 30 days of receipt of notification pursuant to paragraph 2, the notifying</p>

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	<p>importer, it shall inform the importer of the initiation of the verification.</p> <p>7. For a verification under paragraph 1(a) or 1(b), the importing Party shall:</p> <ol style="list-style-type: none"> a) ensure that the written request for information, or documentation to be reviewed, is limited to information and documentation to determine whether the good is originating; b) describe the information or documentation in detail to allow the importer, exporter, or producer to identify the information and documentation necessary to respond; c) allow the importer, exporter, or producer at least 30 days from the date of receipt of the written request or questionnaire under paragraph 1(a) to respond; and d) allow the exporter or producer 30 days from the date of receipt of the written request for a visit under paragraph 1(b) to consent to or refuse the request. <p>8. On request of the importing Party, the Party where the exporter or producer is located may, as it deems appropriate and in accordance with its laws and regulations, assist with the verification. This assistance may include providing information it has that is relevant to the origin verification. The importing Party shall not deny a claim for preferential tariff treatment solely on the grounds that the Party where the exporter or producer is located did not provide requested assistance.</p> <p>9. If an importing Party initiates a verification under paragraph 1(b), it shall, at the time of the request for the visit under paragraph 5, provide a copy of the request to:</p> <ol style="list-style-type: none"> a) the customs administration of the Party in whose territory the visit is to occur; and b) if requested by the Party in whose territory the visit is to occur, the embassy of that Party in the territory of the Party proposing to conduct the visit. <p>10. Each Party shall provide that, when the exporter or producer receives notification pursuant to paragraph 5, the exporter or producer may, on a single occasion, within 15 days of receipt of the notification, request the postponement of the proposed verification visit for a period not</p>	<p>Party may deny preferential tariff treatment to the good that would have been the subject of the visit.</p> <p>5. Each Party shall provide that, where its customs administration receives notification pursuant to paragraph 2, the customs administration may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the date of such receipt, or for such longer period as the Parties may agree.</p> <p>6. A Party shall not deny preferential tariff treatment to a good based solely on the postponement of a verification visit pursuant to paragraph 5.</p> <p>7. Each Party shall permit an exporter or a producer whose good is the subject of a verification visit by another Party to designate two observers to be present during the visit, provided that:</p> <ol style="list-style-type: none"> a) the observers do not participate in a manner other than as observers; and b) the failure of the exporter or producer to designate observers shall not result in the postponement of the visit. <p>8. Each Party shall, through its customs administration, conduct a verification of a regional value-content requirement in accordance with the Generally Accepted Accounting Principles applied in the territory of the Party from which the good was exported.</p> <p>9. The Party conducting a verification shall provide the exporter or producer whose good is the subject of the verification with a written determination of whether the good qualifies as an originating good, including findings of fact and the legal basis for the determination.</p> <p>10. Where verifications by a Party indicate a pattern of conduct by an exporter or a producer of false or</p>

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	<p>exceeding 30 days from the proposed date of the visit.</p> <p>11. Each Party shall provide that, when its customs administration receives notification pursuant to paragraph 9, the customs administration may, within 15 days of receipt of the notification, postpone the proposed verification visit for a period not exceeding 60 days from the proposed date of the visit, or for a longer period as the relevant Parties may decide.</p> <p>12. A Party shall not deny preferential tariff treatment to a good based solely on the postponement of a verification visit pursuant to paragraphs 10 or 11.</p> <p>13. Each Party shall permit an exporter or a producer whose good is subject to a verification visit by another Party to designate two observers to be present during the visit, provided that:</p> <ul style="list-style-type: none"> a) the observers do not participate in a manner other than as observers; b) the failure of the exporter or producer to designate observers does not result in the postponement of the visit; and c) an exporter or producer of a good identifies to the customs administration conducting a verification visit any observers designated to be present during the visit. <p>14. The importing Party shall provide the importer, exporter, or producer that certified that the good was originating and is the subject of a verification, with a written determination of origin that includes the findings of facts and the legal basis for the determination. If the importer is not the certifier, the importing Party shall also provide that written determination to the importer. 15. The Party conducting a verification shall, as expeditiously as possible and within 120 days after it has received all the information necessary² to make the determination, provide the written determination under paragraph 14. Notwithstanding the foregoing, the Party may extend this period, in exceptional cases, for up to 90 days after notifying the importer, and any exporter or producer who is subject to the verification or provided information during the verification.</p>	<p>unsupported representations that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods exported or produced by such person until that person establishes compliance with Chapter Four (Rules of Origin).</p>

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	<p>15. Prior to issuing a written determination under paragraph 14, if the importing Party intends to deny preferential tariff treatment, the importing Party shall inform the importer, and any exporter or producer who is subject to the verification and provided information during the verification, of the preliminary results of the verification and provide those persons with a notice of intent to deny that includes when the denial would be effective and a period of at least 30 days for the submission of additional information, including documents, related to the originating status of the good.</p> <p>16. If verifications by a Party indicate a pattern of conduct by an importer, exporter, or a producer of false or unsupported representations that a good imported into its territory qualifies as an originating good, the Party may withhold preferential tariff treatment to identical goods imported, exported, or produced by such person until that person establishes compliance with this Chapter, Chapter 4 (Rules of Origin), and Chapter 6 (Textile and Apparel Goods).</p> <p>17. For the purposes of this Article and relevant articles of the Uniform Regulations, all communication to the exporter or producer and to the customs administration of the Party of export will be sent by any means that can produce any confirmation of receipt. The specified time periods will begin from the date of receipt.</p>	