



Overview

The Review and Appeal provision of the new United States-Mexico-Canada Agreement (USMCA) provides for the review and the appeal by Parties of determinations of origin and advance rulings. The Review and Appeal of Customs Determinations provision provides effective, impartial, and accessible procedures for review and appeal of administrative determinations on Customs matters. This fact sheet highlights key changes from the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 5, Article 5.15; Chapter 7, Article 7.15
 - *HR 5430 Citation*: Title II, Section 202
- **NAFTA**
 - *Final Text*: Chapter 5, Section D, Article 510; Chapter 18, Article 1805

Significant Changes in USMCA

Provision	USMCA	NAFTA
Review and Appeal	<p>Updated language in USMCA from NAFTA</p> <ul style="list-style-type: none"> • Each Party must ensure that any person to whom a customs administration issues a determination has access to an appeal or a review of the determination by a higher administrative authority higher than or independent office and a quasi-judicial or judicial review or appeal of the determination or decision made at the final administrative review. • Each Party shall provide the reasons for the administrative determination and access to information on how to request reviews and appeals. • Each Party shall ensure that a determination or decision is applicable in the same manner throughout the Party's territory of the with respect to that person. 	<ul style="list-style-type: none"> • NAFTA provides that each Party must ensure that any person to whom a customs administration issues a determination has access to an appeal or a review of the determination by a higher administrative authority higher than or independent office and a quasi-judicial or judicial review or appeal of the determination or decision made at the final administrative review.



Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Review and Appeal	<ul style="list-style-type: none"> • Each Party shall grant substantially the same rights of review and appeal of determinations of origin and advance rulings by its customs administration related to origin under this Agreement as it provides to importers in its territory, to an exporter or producer: <ul style="list-style-type: none"> a) that completes a certification of origin for a good that has been the subject of a determination of origin under this Agreement; or b) that has received an advance ruling on origin under this Agreement pursuant to Article 5.14 (Advance Rulings Relating to Origin), and Article 7.5 (Advance Rulings). <p><i>(Reference: Article 5.15)</i></p>	<ol style="list-style-type: none"> 1. Each Party shall grant substantially the same rights of review and appeal of marking determinations of origin, country of origin determinations and advance rulings by its customs administration as it provides to importers in its territory to any person: <ul style="list-style-type: none"> a) who completes and signs a Certificate of Origin for a good that has been the subject of a determination of origin; b) whose good has been the subject of a country of origin marking determination pursuant to Article 311 (Country of Origin Marking); or c) who has received an advance ruling pursuant to Article 509(1). 2. Further to Articles 1804 (Administrative Proceedings) and 1805 (Review and Appeal), each Party shall provide that the rights of review and appeal referred to in paragraph 1 shall include access to: <ul style="list-style-type: none"> a) at least one level of administrative review independent of the official or office responsible for the determination under review; and b) in accordance with its domestic law, judicial or quasijudicial review of the determination or decision taken at the final level of administrative review. <p><i>(Reference: Article 510)</i></p>
Provision of Information	<ol style="list-style-type: none"> 1. With a view to providing effective, impartial, and easily accessible procedures for review and appeal of administrative determinations on customs matters, each Party shall ensure that any person to whom a customs administration issues a determination has access to: <ul style="list-style-type: none"> a) an administrative appeal or a review of the determination by an administrative authority higher than or independent of the employee or office that issued the determination; and b) a quasi-judicial or judicial review or appeal of the determination or 	<ol style="list-style-type: none"> 1. Each Party shall establish or maintain judicial, quasi-judicial or administrative tribunals or procedures for the purpose of the prompt review and, where warranted, correction of final administrative actions regarding matters covered by this Agreement. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter. 2. Each Party shall ensure that, in any such tribunals or procedures, the parties to the proceeding are provided with the right to:

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	<p>decision made at the final level of an administrative review.</p> <p>2. Each Party shall provide a person to whom it issues an administrative determination with the reasons for the administrative determination and access to information on how to request reviews and appeals.</p> <p>3. Each Party shall ensure that an authority conducting a review or appeal under paragraph 1 notifies the person in writing of its determination or decision in the review or appeal, and the reasons for the determination or decision.</p> <p>4. Each Party shall ensure that if a person receives a determination or decision on an administrative, quasi-judicial, or judicial review or appeal as provided under paragraph 1, that determination or decision shall be applicable in the same manner throughout the territory of the Party with respect to that person.</p> <p>5. With a view to ensuring predictability for traders and consistent application of its customs laws, regulations, and procedural requirements, each Party is encouraged to apply determinations or decisions of administrative, quasi-judicial, and judicial authorities under paragraph 1 to the practices of its customs administration throughout its territory.</p> <p>6. Each Party shall endeavor to allow a trader to file a request for administrative review or appeal to be conducted by the customs administration through electronic means.</p> <p><i>(Reference: Article 7.15)</i></p>	<p>a) a reasonable opportunity to support or defend their respective positions; and</p> <p>b) a decision based on the evidence and submissions of record or, where required by domestic law, the record compiled by the administrative authority.</p> <p>3. Each Party shall ensure, subject to appeal or further review as provided in its domestic law, that such decisions shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.</p> <p><i>(Reference: Article 1805)</i></p>