



Overview

The United States-Mexico-Canada Agreement (USMCA) provision adds new elements to the Advance Rulings requirements that were not included in its predecessor, the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 5, Article 5.14; Chapter 7, Articles 7.6 and 7.16
- **NAFTA**
 - *Final Text*: Chapter 5, Article 509
 - *CFR*: 19 CFR §181 Subpart I

Significant Changes in USMCA

Provision	USMCA	NAFTA
Changes / Differences	New to USMCA <ul style="list-style-type: none"> • The importer, exporter, producer, or anyone who is related to the trade transaction can request an advance ruling and does not require a domestic resident to request an advance ruling for an exporter or producer. • An advance ruling applies to the ruling requester throughout the territory. • Availability for free online information on advance rulings • Advance rulings or modified/revoked rulings must be effective on the issuance date or a specific later date written in the ruling. However, if the original advance ruling requester demonstrates that he/she has relied on the ruling in good faith; and the modified ruling has caused harm to the requester, the modified ruling effective date will be delayed for up to 90 days. 	
Issuing Time	<ul style="list-style-type: none"> • An advance ruling must be issued within 120 days 	<ul style="list-style-type: none"> • Not specified.
Ruling Subjects	<ul style="list-style-type: none"> • Tariff classification • Customs valuation • Origin of goods • Quota • Other issues agreed upon 	<ul style="list-style-type: none"> • Not specified.
Modification or Revocation	<ul style="list-style-type: none"> • The USMCA outlines the reasons for Customs to modify or revoke an advance ruling. • Customs shall provide notification or revocation of any advance ruling. • However, an advance ruling cannot be retroactively revoked or modified if that will hurt the original ruling requester unless the requester did not follow the advance ruling or the ruling was based on false information provided by the requester. 	<ul style="list-style-type: none"> • NAFTA listed reasons with detailed information to allow customs to modify or revoke an advance ruling.

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Provision	USMCA	NAFTA
Advance Rulings Relating to Origin	<ul style="list-style-type: none"> • Origin of goods, including qualifications for originating good, is one of the topic that advance rulings covering • Each customs administration must have its uniform procedures to issue an advance ruling on Origin of goods based on the Agreement and Uniform Regulation standards 	<ul style="list-style-type: none"> • NAFTA listed detailed topics related to origin of goods that advance rulings will cover: <ul style="list-style-type: none"> ○ qualification for production occurring entirely in the territory under Specific Rules or Origin ○ qualification for regional value-content based on value ○ qualification for regional value-content based on method of value ○ qualification for originating good ○ qualification for duty-free treatment on reentered goods ○ qualification for originating good as a good of a part regarding textile (Annex 300-B) and agriculture (Annex 302.2)

Detailed USMCA/NAFTA Side-by-Side

Provision	USMCA	NAFTA
Advance Rulings	<p>Article 7.5: Advance Rulings</p> <ol style="list-style-type: none"> 1. Each Party shall, through its customs administration, issue a written advance ruling prior to the importation of a good into its territory that sets forth the treatment that the Party shall provide to the good at the time of importation. 2. Each Party shall allow an exporter, importer, producer, or any other person with a justifiable cause, or a representative thereof, to request a written advance ruling. 3. No Party shall as a condition for requesting an advance ruling, require an exporter or producer of another Party to establish or maintain a contractual or other relation with a person located in the territory of the importing Party. 4. Each Party shall issue advance rulings with regard to: <ol style="list-style-type: none"> a) tariff classification; b) the application of customs valuation criteria for a particular case in accordance with the Customs Valuation Agreement; c) the origin of the good, including whether the good qualifies as an 	<p>Articles 509: Advance Rulings</p> <ol style="list-style-type: none"> 1. Each Party shall, through its customs administration, provide for the expeditious issuance of written advance rulings, prior to the importation of a good into its territory, to an importer in its territory or an exporter or a producer in the territory of another Party, on the basis of the facts and circumstances presented by such importer, exporter or producer of the good, concerning: <ol style="list-style-type: none"> a) whether materials imported from a non-Party used in the production of a good undergo an applicable change in tariff classification set out in Annex 401 as a result of production occurring entirely in the territory of one or more of the Parties; b) whether a good satisfies a regional value-content requirement under either the transaction value method or the net cost method set out in Chapter Four; c) for the purpose of determining whether a good satisfies a regional value-content requirement under Chapter Four, the appropriate basis or method for value to be applied by an exporter or a producer in the territory of another Party, in accordance with

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	<p>originating good under the terms of this Agreement;</p> <p>d) whether a good is subject to a quota or a tariff-rate quota; and</p> <p>e) other matters as the Parties may agree.</p> <p>5. Each Party shall adopt or maintain uniform procedures throughout its territory for the issuance of advance rulings, including a detailed description of the information required to process an application for a ruling.</p> <p>6. Each Party shall provide that its customs administration:</p> <p>a) may, at any time during the course of an evaluation of a request for an advance ruling, request supplemental information from the person requesting the ruling or a sample of the good for which the advance ruling was requested;</p> <p>b) in issuing an advance ruling, take into account the facts and circumstances provided by the person requesting that ruling;</p> <p>c) issue the ruling as expeditiously as possible and in no case later than 120 days after it has obtained all necessary information from the person requesting an advance ruling; and</p> <p>d) provide to that person a full explanation of the reasons for the ruling.</p> <p>7. Each Party shall provide that its advance rulings take effect on the date that they are issued or on a later date specified in the ruling, and remain in effect unless the advance ruling is modified or revoked.</p> <p>8. Each Party shall provide to a person requesting an advance ruling the same treatment, including the same interpretation and application of provisions of Chapter 4 (Rules of Origin) regarding a determination of origin, as it provided to any other person to whom it issued an advance</p>	<p>the principles of the Customs Valuation Code, for calculating the transaction value of the good or of the materials used in the production of the good;</p> <p>d) for the purpose of determining whether a good satisfies a regional value-content requirement under Chapter Four, the appropriate basis or method for reasonably allocating costs, in accordance with the allocation methods set out in the Uniform Regulations, for calculating the net cost of the good or the value of an intermediate material;</p> <p>e) whether a good qualifies as an originating good under Chapter Four;</p> <p>f) whether a good that re-enters its territory after the good has been exported from its territory to the territory of another Party for repair or alteration qualifies for duty-free treatment in accordance with Article 307 (Goods Re-Entered after Repair or Alteration);</p> <p>g) whether the proposed or actual marking of a good satisfies country of origin marking requirements under Article 311 (Country of Origin Marking);</p> <p>h) whether an originating good qualifies as a good of a Party under Annex 300-B (Textile and Apparel Goods) , Annex 302.2 (Tariff Elimination) or Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures) ;</p> <p>i) whether a good is a qualifying good under Chapter Seven; or</p> <p>j) such other matters as the Parties may agree.</p> <p>2. Each Party shall adopt or maintain procedures for the issuance of advance rulings, including a detailed description of the information reasonably required to process an application for a ruling.</p> <p>3. Each Party shall provide that its customs administration:</p>

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	<p>ruling, provided that the facts and circumstances are identical in all material respects.</p> <p>9. An advance ruling issued by a Party shall apply throughout its territory to the person to whom the ruling is issued.</p> <p>10. After issuing an advance ruling, the issuing Party may modify or revoke the advance ruling if there is a change in the law, facts, or circumstances on which the ruling was based, or if the ruling was based on inaccurate or false information, or on an error.</p> <p>11. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of a post clearance audit or an administrative, judicial, or quasi-judicial review or appeal. A Party that declines to issue an advance ruling shall promptly notify, in writing, the person requesting the ruling, setting out the relevant facts and circumstances and the basis for its decision.</p> <p>12. No Party shall apply retroactively a revocation or modification to the detriment of the requester unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions or the ruling was based on inaccurate or false information provided by the requester.</p> <p>13. Each Party shall provide that, unless it retroactively applies a modification or revocation as described in paragraph 12, any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein.</p> <p>14. The issuing Party shall postpone the effective date of such modification or revocation for a period not exceeding 90 days if the person to whom the advance ruling was issued demonstrates that it has relied in good faith to its detriment on that ruling.</p>	<p>a) may, at any time during the course of an evaluation of an application for an advance ruling, request supplemental information from the person requesting the ruling;</p> <p>b) shall, after it has obtained all necessary information from the person requesting an advance ruling, issue the ruling within the periods specified in the Uniform Regulations; and</p> <p>c) shall, where the advance ruling is unfavorable to the person requesting it, provide to that person a full explanation of the reasons for the ruling.</p> <p>4. Subject to paragraph 6, each Party shall apply an advance ruling to importations into its territory of the good for which the ruling was requested, beginning on the date of its issuance or such later date as may be specified in the ruling.</p> <p>5. Each Party shall provide to any person requesting an advance ruling the same treatment, including the same interpretation and application of provisions of Chapter Four regarding a determination of origin, as it provided to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects.</p> <p>6. The issuing Party may modify or revoke an advance ruling:</p> <p>a) if the ruling is based on an error</p> <ol style="list-style-type: none"> i. of fact, ii. in the tariff classification of a good or a material that is the subject of the ruling, iii. in the application of a regional value-content requirement under Chapter Four, iv. in the application of the rules for determining whether a good qualifies as a good of a Party under Annex 300-B, 302.2 or Chapter Seven, v. in the application of the rules for determining whether a good is a

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	<p>15. Each Party shall, in accordance with its laws, regulations, and procedures, make its advance rulings, complete or redacted, available on a free, publicly accessible website.</p> <p>Article 5.14: Advance Rulings Relating to Origin</p> <p>1. In accordance with Article 7.5 (Advance Rulings), each Party, through its customs administration, shall, upon request, provide for the issuance of a written advance ruling on origin under this Agreement.</p> <p>2. Each Party shall adopt or maintain uniform procedures throughout its territory for the issuance of advance rulings on origin under this Agreement, including the common standards set out in the Uniform Regulations regarding the information required to process an application for a ruling.</p> <p>Article 7.16: Administrative Guidance</p> <p>1. Each Party shall adopt or maintain an administrative procedure by which a customs office in its territory may request the appropriate authority of the customs administration to provide guidance as to the proper application of laws, regulations, and procedures for importation into, exportation from, or transit through its territory with respect to a specific customs transaction, regardless of whether the transaction is prospective, pending, or has been completed. A customs office shall request guidance under this administrative procedure on its own initiative or at the written request of an importer or exporter in its territory, or a representative thereof.</p> <p>2. The appropriate authority of a Party shall provide guidance in response to a request under paragraph 1 if the customs treatment applied or proposed to be applied by the customs office to the transaction is inconsistent with the customs treatment provided with respect to transactions that are identical</p>	<p>qualifying good under Chapter Seven, or</p> <p>vi. in the application of the rules for determining whether a good that re-enters its territory after the good has been exported from its territory to the territory of another Party for repair or alteration qualifies for duty-free treatment under Article 307;</p> <p>b) if the ruling is not in accordance with an interpretation agreed by the Parties regarding Chapter Three (National Treatment and Market Access for Goods) or Chapter Four;</p> <p>c) if there is a change in the material facts or circumstances on which the ruling is based;</p> <p>d) to conform with a modification of Chapter Three, Chapter Four, this Chapter, Chapter Seven, the Marking Rules or the Uniform Regulations; or</p> <p>e) to conform with a judicial decision or a change in its domestic law.</p> <p>7. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued or on such later date as may be specified therein and shall not be applied to importations of a good that have occurred prior to that date, unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.</p> <p>8. Notwithstanding paragraph 7, the issuing Party shall postpone the effective date of such modification or revocation for a period not exceeding 90 days where the person to whom the advance ruling was issued has relied in good faith to its detriment on that ruling.</p> <p>9. Each Party shall provide that where its customs administration examines the regional value content of a good for which it has issued an advance ruling pursuant to subparagraph 1(c), (d) or (f), it shall evaluate whether:</p>

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	<p>in all material respects, including by another customs office in the territory of the Party.</p> <p>3. Each Party shall make available to the public on a free, publicly accessible website the procedures, including any forms, for requesting guidance under paragraph 1.</p> <p>4. Each Party shall allow an importer or exporter to whom a request under paragraph 1 relates an opportunity to submit written views and information to the appropriate authority of the customs administration before it issues guidance in response to a request.</p> <p>5. Guidance in response to a request under paragraph 1 shall be taken into account by the customs office with respect to the transaction that is the subject of the request, provided that there is not a ruling or determination issued on the transaction and the facts and circumstances remain the same.</p> <p>6. Nothing in this Article requires the appropriate authority of the customs administration to provide guidance on transactions for which a determination has been made, or for which a determination has been applied consistently throughout its territory; on transactions for which a determination is pending; if an importer or exporter has requested a ruling or has received a ruling that has been applied consistently throughout its territory; or on transactions for which a determination or ruling is being reviewed.</p>	<p>a) the exporter or producer has complied with the terms and conditions of the advance ruling;</p> <p>b) the exporter's or producer's operations are consistent with the material facts and circumstances on which the advance ruling is based; and</p> <p>c) the supporting data and computations used in applying the basis or method for calculating value or allocating cost were correct in all material respects.</p> <p>10. Each Party shall provide that where its customs administration determines that any requirement in paragraph 9 has not been satisfied, it may modify or revoke the advance ruling as the circumstances may warrant.</p> <p>11. Each Party shall provide that, where the person to whom an advance ruling was issued demonstrates that it used reasonable care and acted in good faith in presenting the facts and circumstances on which the ruling was based, and where the customs administration of a Party determines that the ruling was based on incorrect information, the person to whom the ruling was issued shall not be subject to penalties.</p> <p>12. Each Party shall provide that where it issues an advance ruling to a person that has misrepresented or omitted material facts or circumstances on which the ruling is based or has failed to act in accordance with the terms and conditions of the ruling, the Party may apply such measures as the circumstances may warrant.</p>